



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.3830 OF 2010

AND

M.P.NO.1 OF 2010

M/s. Sakthi Footwear,
Represented by its Partner,
Mr.D.Senthilmurugan,
Represented by his Power Agent,
A.Mahesh,
New No.30, Old No.12,
V.P.Akilan Street,
Madiazhagan Nagar, Saligramam,
Chennai - 600 093.

... Petitioner

Vs.

1. The Collector of Chennai,
Office of the Collectorate,
Singaravelar Maaligai,
Rajaji Salai, Chennai - 600 001.
2. The District Revenue Officer,
Singaravelar Maaligai,
Rajaji Salai, Chennai - 600 001.
3. The Tahsildar,
Mambalam Guindy Taluk Office,
K.K.Nagar, Chennai - 600 078.
4. The Inspector of Police,
M.G.R. Nagar Police Station,
Nesapakkam, Chennai - 600 078.
5. The Tamil Nadu Housing Board,
Rep. by its Managing Director,
No.493, Anna Salai,
Nandanam, Chennai - 600 035.

(R-5 Impleaded vide order dated 10.02.2022
in MP.No.2 of 2010 in W.P.No.3830 of 2010)

... Respondents



Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents from in any manner interfering with the petitioner's possession of the Property situated at plot No.2, 3, 4(part), 5(part) 6 and 7, Pillaiyar Koil Street, Nesapakkam Village, comprised in Survey Nos.112/2-A, and 115/2-A of Nesapakkam Village, measuring about 15902 sq.ft. by way of trespass or dispossession or stopping of construction activity of the petitioner in the above said land.

For Petitioner : Mr.K.Sellathurai

For Respondents : Mr.T.Chezhiyan
Additional Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus to forbear the respondents from interfering with the petitioner's possession of the Property situated at plot No.2, 3, 4(part), 5(part) 6 and 7, Pillaiyar Koil Street, Nesapakkam Village, comprised in Survey Nos.112/2-A, and 115/2-A of Nesapakkam Village, measuring about 15902 sq.ft. by way of trespass or dispossession or stopping of construction activity of the petitioner in the above said land.

2. The case of the petitioner is that, the petitioner firm purchased the above said property from one Anirudhan and others by way of Sale deed dated 21.08.2002. Thereafter, the petitioner firm made an application dated 10.02.2003 before the third respondent, seeking for issuance of patta and the same was considered and patta has been issued in favour of the petitioner firm, after verifying all necessary documents and that the petitioner firm is the absolute owner of the above said property. While so, the Chennai Metropolitan Development Authority issued impugned proceedings dated 15.03.2006 and directed the petitioner firm to obtain No Objection Certificate (in short NOC) from the Housing Board to proceed with the above said property. Aggrieved by the said impugned proceedings, the petitioner firm filed a Writ Petition in W.P.No.15872 of 2006 before this Court and this Court vide order dated 24.08.2006, directed the petitioner to file fresh application and consequently directed the Chennai Metropolitan Development Authority to consider the same and pass orders without insisting upon the NOC from Housing Board.



3. It is further submitted that, pursuant to the order of this court, the planning permission was granted to the petitioner firm. While such being the situation, the Tamil Nadu Housing Board tried to interfere with the enjoyment of the said property and against the same, the petitioner firm filed W.P.No.7269 of 2009, and this Court vide order dated 21.04.2009 allowed the writ petition in favour of the petitioner as the disputed property/land does not come under acquisition proceedings. While so, 2nd respondent / the Tahsildar and the 3rd respondent / District Revenue Officer visited the petitioner firm's property and instructed the petitioner firm to stop the construction of residential building in the above said property. Aggrieved by the same, the petitioner firm made representation dated 12.02.2010 before the 2nd and 3rd respondent. However, till date no orders have been passed on the said representation. Hence, the present writ petition.

4. The learned counsel for the petitioner submitted that, though the planning permission was granted by the Corporation of Madras in favour of the petitioner firm for construction of building in the above said property and also this Court vide order dated 21.04.2009 declared that the above said land does not come under the land acquisition proceeding, the 2nd and 3rd respondent directed the petitioner firm not to proceed with the construction activity, which is not sustainable. Hence, he submitted that, this Court may issue direction to consider the petitioner's representation dated 12.02.2010 and to consequently forbear the respondents from interfering with the petitioner's possession of the property.

5. The learned Additional Government Pleader appearing for the respondents submitted that, the disputed land was acquired under the land acquisition proceedings and the same was handed over to the Tamil Nadu Housing Board. Hence, he vehemently opposed for the above said order being passed.

6. Heard the arguments advanced by the learned counsel on either side.

7. Considering the facts and circumstances of the case, admittedly the petitioner firm claims that, they are the owner of the above said property and the same was confirmed by order of this Court dated 21.04.2009. However, on the contrary, the respondents claims that the disputed land was acquired under the Land Acquisition Proceedings and it was handed over to the Tamil Nadu Housing Board. On perusal of the records, it reveals that, petitioner firm is the owner of the above property and the Housing Board has no authority to acquire the property without following the due process of law. The newly impleaded



respondent, Tamil Nadu Housing Board is directed to consider the representation and pass appropriate orders as expeditiously as possible. It is needless to state that it is open to the Tamil Nadu Housing Board to follow the procedure prescribed by law and initiate proceedings after following the due process of law, if so required.

8. This writ petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rgm/nti

To

1. The Collector of Chennai,
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5. The Managing Director,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai - 600 035.

+1cc to M/s.K.Sellathurai, Advocate, S.R.No.8553
+1cc to the Government Pleader, S.R.No.9256

W.P.No.3830 of 2010

MT(CO)
RLP(15/03/2022)