

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.29790 of 2012

R.Kasturi

.. Petitioner

Vs.

1. Tamil Nadu Housing Board,
Represented by its Chief Revenue Officer,
493, Anna Salai, Nandanam, Chennai-35.

2. The Tamil Nadu Housing Board,
Represented by its Chairman,
Nandanam, Chennai-35.

3. The Sholinganallur Town Panchayat,
Rep. By its Executive Officer,
Sholinganallur, chennai-118.

.. Respondents

Petitions filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus calling for the records in Letter No.LA1(5)/49553/09 dated 16.12.2009 on the file of the first respondent and quash the same and consequently to direct the second respondent to issue No Objection Certificate to the petitioner pursuant to the application dated 02.04.2007 submitted by the petitioner for the site in plot No.35 in Survey No.323/1B Sholinganallur Village, Tambaram Taluk, Kancheepuram District and to grant such further or other orders and directions.

For Petitioner : Mr. N.S.Nandakumar

For Respondent : Mr. Muthusamy
Government Advocate

O R D E R

The petition has been filed to quash the proceedings in No.LA1(5)/49553/09 dated 16.12.2009 on the file of the first respondent and direct the second respondent to issue No Objection Certificate to the petitioner pursuant to the application dated 02.04.2007 submitted by the petitioner for the site in plot No.35 in Survey No.323/1B Sholinganallur Village,

Tambaram Taluk, Kancheepuram District.

2. The case of the petitioner is that she is the owner of the property in Plot No.35 to an extent of 2100 sq. ft. in the approved layout MMDA PPD/LO No.122/88 comprised in Survey No.323/1B situated at 155, Sholinganallur Village, Tambaram Taluk, Kancheepuram District and she purchased the above said property from one Rajeswari by a sale deed dated 31.03.2004 registered as document No,1805/2004. The petitioner's vendor has purchased the property in Plot Nos.28 and 35 vide registered sale deed dated 18.03.1992 from his previous owners. It is the further case of the petitioner that the above mentioned layouts with larger extent of adjoining properties were sought to be acquired for forming neighbourhood housing colony by the Government through the Tamil Nadu Housing Board. Challenging the said acquisition notification issued by the Housing Board, most of the plot owners have filed the writ petitions before this Court and the Hon'ble Division Bench, vide its judgement dated 24.01.1996, quashed the entire acquisition proceedings. Thereafter, the petitioner has approached the respondent for obtaining NOC. But the respondents have not taken any steps to provide NOC to the petitioner. For the inaction of the respondents, the petitioner has filed a writ petition before this Court and the same was ordered directing the respondents herein to consider the said representation of the petitioner dated 02.04.2007 within a period of eight weeks from the date of receipt of a copy of the order. Pursuant to which, the present impugned order has been passed by the first respondent stating that the above said land is a government land. Challenging the same, the present writ petition has been filed to quash the same.

3. The learned counsel for the petitioner submitted that the number of plot owners, who are not a party in the above Division Bench Judgment, have also obtained NOC from the Government and constructed houses in that locality, after getting building permission from the Sholinganallur Town Panchayat. The petitioner is also entitled to get the same relief and the respondents are bound to give NOC to the petitioner. Hence, the learned counsel prays to set aside the impugned order and allow the writ petition.

4. Heard, learned counsel for the petitioner, the learned Government Advocate appearing on behalf of the respondents and perused the materials available on records.

5. In the counter affidavit filed by the respondents, it has been stated that the Chairman, Tamil Nadu House Board, in his letter dated 07.10.1989 sent a requisition for the acquisition of 21.83.0 hectares of Sholinganallur Village, for

the formation of housing schemes for the public purpose to the Special Tahsildar. The notification under Section 4(1) for the land acquisition Act was approved by the Government in G.O.Ms.No.454 Housing and Urban Development Department, dated 23.05.1990 and the same was published in the Government Gazette dated 06.06.1990. After completion of all the formalities of the land acquisition act, the Tahsildar passed the award No.1/2001 dated 23.11.2001 in which the said land in S.No.323 to an extent of 0.58.0 hectares is also covered including the petitioner land in S.No.323/1B was taken over by the Tamil Nadu Housing Board on 25.04.2006 and the said land in question is enjoyment with the Housing Board.

6. This Court have carefully perused the counter affidavit and the impugned order. On perusal of the same, the petitioner's vendor had purchased the property in the year 1992 and the petitioner purchased the property in the year 2004. The Tahsildar passed award on 23.11.2001 after completing necessary formalities. Once award is passed, the land absolutely vest with the Government. Without challenging the land acquisition proceedings, the petitioner made a representation seeking 'no objection certificate' for building plan approval from the respondents, which is not sustainable and the respondents have incompetent to issue NOC to the petitioner.

7. In the light of the above facts and circumstances of the case, this court is of the considered view that there is no reason to interfere with the impugned order and the writ petition is also liable to be dismissed.

8. In the result, the Writ Petition is dismissed. No costs. However, liberty is granted to the petitioner to work out her remedy in the manner known to law.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Rli

To

1. Tamil Nadu Housing Board,
Represented by its Chief Revenue Officer,
493, Anna Salai, Nandanam, Chennai-35.

2. The Tamil Nadu Housing Board,
Represented by its Chairman,
Nandanam, Chennai-35.

3. The Sholinganallur Town Panchayat,
Rep. By its Executive Officer,
Sholinganallur, chennai-118.

+1cc to the Government Pleader, S.R.No.13776

W.P. No.29790 of 2012

MT(CO)
CT 28/03/2022