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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.04.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.8127 of 2022

V.V.Senthilkumar

... Petitioner

Vs.

1.The Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Secretariat,
Chennai-600009.

2.The Managing Director,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai-6000353.

3.The Executive Engineer and
Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
C-48, T.N.H.B.Commercial Complex,
Anna Nagar, 2nd Avenue,
Chennai-600040.

4.The Special Tahsildar,
Tamil Nadu Hosuing Board,
K.K.Nagar Division,
Chennai.

5.The Tahsildar,
Maduravoyal Taluk,
Gangayamman Koil Street,
Alappakkam,
Chennai-600116.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 5th respondent to consider petitioner's application No.2022/01/05/02/276404, dated 01.03.2022 and to issue the Patta to the petitioner for his property bearing Plot No.148, 149, 144 and 143 of total extent 4200 sq.ft. in S.No.323/2 in Balavinayar Nagar, Nerkundram Village, Ambattur Taluk, Tiruvellur District.



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For Petitioner : Mr.M.Premkumar

For Respondents : Mr.V.Veluchamy
Additional Government Pleader

For TNHB : Mr.M.Baskar

O R D E R

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, to direct the 5th respondent to consider petitioner's application No.2022/01/05/02/276404, dated 01.03.2022 and to issue the Patta to the petitioner for his property bearing Plot No.148, 149, 144 and 143 of total extent 4200 sq.ft. in S.No.323/2 in Balavinayar Nagar, Nerkundram Village, Ambattur Taluk, Tiruvellur District.

2. The learned Additional Government Pleader takes notice for the official respondent. In view of the limited relief sought for in this petition and on the consent of the learned counsel appearing on either side, this petition is taken up for final disposal.

3. The case of the petitioner is that the petitioner is the absolute owner of the property in Plot No.148, 149, 144 and 143, to an extent of 4200 Sq.ft., in S.No.323/3 in Balavinayar Nagar, Nerkundram Village, Ambattur Taluk, Tiruvellur District. The said property was purchased by the petitioner from V.V.Giridharan, General Power of Attorney holder of V.Ramganayakiammal wife of D.Venkatarathinam through Sale Deed, dated 22.10.2007 vide Document No.5600 of 2007, in the office of S.R.O. Virugambakkam. From the date of execution of the Sale Deed, the petitioner is in possession and enjoyment of the same. The Tamil Nadu Housing Board with an intention to acquire the above said land among others, had issued Notification under Section 4(1) of the Land Acquisition Act, 1984 vide G.O.M.S.No.124 dated 08.05.1975, published on 11.06.1975 and subsequently Section 6 Declaration was also issued which was published on 09.06.1978. The above said property is a part of a larger extent of land measuring 10.73 acres comprised in Survey Nos.284/1A, 373/2A, 373/2B, 374/2 and 375, Nerkundram Village, which was originally owned and possessed by one Venkatasamy Naicker. The said Venkatasamy Naicker was died on 05.11.1982. Thereafter, the wife of the Venkatasamy naicker namely Ponnammal is in possession and enjoyment of the aforesaid 10.73 acres



land. The said Ponnammal challenged the said acquisition proceedings before this Court in W.P.No.8371 of 1986 and this Court by its order dated 21.01.1986 quashed Section 6 Declaration. Thereafter, no fresh acquisition proceedings were initiated by the Tamil Nadu Housing Board. The petitioner's land is adjacent to the said Venkatasamy Naicker land, where the similar notification was quashed in respect of Venkatasamy Naicker. The petitioner immediately after purchase of land presented the document for issuance of Patta. The respondent has not applied his mind to process petitioner's application, for grant of Patta. Hence, other land owners filed W.P.Nos.8979, 8980 and 9105 of 2018, for issuance of Patta. These Writ Petitions are allowed in their favour. Hence, the petitioner made application before the 5th respondent, on 01.03.2022, for issuance of Patta. However, the 5th respondent orally directed the petitioner to approach the Court and obtain order, thereafter, the Patta will be issued. Hence, this Writ Petition is filed with the aforesaid prayer.

4. The learned counsel for the petitioner submitted that it would suffice if this Court issues direction to the respondent to consider the petitioner's representation, dated 01.03.2022, and pass orders within a reasonable time that may be fixed by this Court.

5. The learned Standing Counsel appearing for the Tamil Nadu Housing Board submitted that the petitioner's vendor namely V.Ranganayakiammal filed W.P.No.10133 of 1988, for challenging the Notification under Section 4(1) dated 11.06.1975 as per G.O.Ms.No.124 and Notification under Section 6 of the Land Acquisition Act, dated 09.06.1978. This Court by its order 05.02.1996, dismissed the Writ Petition. The possession of the disputed land was already taken by the Housing Board, hence, the prayer sought for in this petition is not maintainable. Accordingly, he prayed for dismissal of this Writ Petition.

6. Admittedly, the petitioner claims that he purchased the property from the Power Agent of one V.Ranganayakiammal. However, the said Ranganayakiammal filed Writ Petition No.10133 of 1988, challenging the Section 4(1) Notification and Section 6 declaration and the same was dismissed by this Court on 05.02.1996. Thereafter, the original owner has not taken any steps to challenge the order passed by this Court, that order has become final and the housing board has become the owner of the property. No contrary materials have been placed before this Court to substantiate the petitioner's claim of title. Hence, the prayer sought for in this petition cannot be granted.



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7. With the above observation, this Writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

Psa

To

- 1.The Secretary to Government,
Housing and Urban Development Department,
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Chennai-600009.
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+1cc to Mr.M.Premkumar, Advocate SR.No.23207
+1cc to Government Pleader SR.No.23816

W.P. No.8127 of 2022

GP(CO)
ASK(21/04/2022)