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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.No.10049 of 2020

S.P.Thirumurthi

... Petitioner

Vs

1.The District Registrar,
Office of the District Registrar,
Rangampalayam,
Erode 638 009

2.The Sub Registrar Joint-II,
Office of the District Registrar,
Rangampalayam,
Erode 638 009

3.The Executive Engineer / Administrative Officer,
Tamilnadu Housing Board,
Surampatti, 4 Road,
Erode 638 009

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the third respondent to issue No Objection Certificate enabling to register the receipt and other documents with the second respondent in respect of the property in respect of Flat No.64, Subramaniya Nagar, Kasipalayam, Erode Village, Erode Town New R.S.No.741/11, Old R.S.No.749/1A, Ward No.20 to an extent of 223 sq.mtr or 2400 sq.ft. forthwith based on the refusal letter dated 18.02.2020 by the second respondent in RLF/1 No Joint Sub Registrar, Erode 12/2020.

For Petitioner : Mr.C.Prabakaran

For Respondents

For R1 & 2 : Mr.Yogesh Kannadasan,
Special Government Pleader

For R3 : Mr.I.Sathish,
Standing Counsel

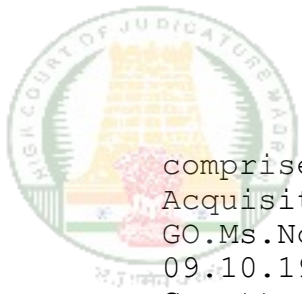


ORDER

This writ petition is filed for direction directing the third respondent to issue No Objection Certificate enabling to register the receipt and other documents with the second respondent in respect of the property in respect of Flat No.64, Subramaniya Nagar, Kasipalayam, Erode Village, Erode Town New R.S.No.741/11, Old R.S.No.749/1A, Ward No.20 to an extent of 223 sq.mtr or 2400 sq.ft. forthwith based on the refusal letter dated 18.02.2020 by the second respondent in RLF/1 No Joint Sub Registrar, Erode 12/2020.

2. The petitioner owned property comprised in survey Nos.749/A and 749/B situated at Subramaniyam Nagar, Erode admeasuring 2400 sq.ft. by purchase for valid sale consideration under the registered sale deed dated 19.05.2016 registered vide document No.3142 of 2016. Thereafter, the said property was mortgaged by way of memorandum of deposit of title deeds and obtained financial assistance to the tune of Rs.25,00,000/-. Again the petitioner, to meet out his family expenses and business transactions, intended to create memorandum of deposit of title deed with Punjab National Bank seeking financial assistance. Therefore, the petitioner intended to discharge the memorandum of deposit of title deeds registered with the earlier financial Corporation i.e. Can Fin Homes Limited and approached the second respondent. In turn, the petitioner was informed that the petitioner has to get no objection certificate from the third respondent. Therefore, the petitioner filed writ petition before this Court in WP.No.1280 of 2020 for direction directing the respondents 1 and 2 to register the deed of cancellation of title deeds. This Court disposed of the writ petition directing the registering authority either to pass orders to register or reject the same. However, the second respondent refused to register the document and returned the same for the reason that the third respondent submitted letter dated 26.12.2017 that the possession of the subject property remains with the third respondent and objected the registration. Therefore, the petitioner requested the third respondent to issue no objection certificate to register the memorandum of deposit of title deeds in respect of the subject property.

3. On perusal of counter filed by the third respondent revealed that the third respondent proposed to acquire the lands admeasuring 436.54.0 hectares situated at Muthampalayam and Surampatti Villages, Erode and the said request was approved to the extent of 319.51.5 hectares. The land acquisition proposal was sub-divided into 13 convenient blocks for easy acquisition purpose. The subject land belongs to the petitioner fell in Block No.II and it covered to an extent of 11.71.5 hectares



comprised in SF.No.739/1 etc. Accordingly, under Land Acquisition Act, 1894, 4(1) notification was issued by the GO.Ms.No.1240 Housing and Urban Development Department dated 09.10.1990 and it was published in the Tamilnadu Government Gazette on 31.10.1990. Thereafter, notice in Form B under Section 5(A) of the said Act was served to the land owners / interested persons. Accordingly, enquiry under Section 5(A) was conducted by the Special Tahsildar dated 09.12.1991 and 24.02.1992. After receipt of remarks from the requisition body, requested the land owners to appear for re-enquiry on 06.08.1992. Thereafter, draft declaration under Section 6 of the said Act was recommended and approved by GO.Ms.No.679 HUDD dated 29.09.1992 and published in the Tamilnadu Government Gazette No.576 dated 30.09.1992. Notices under Sections 9(1), 9(3) and 10 were issued to the land owners and award enquiry under Section 11 of the said Act was conducted on 15.09.1994 and 20.09.1994. Finally, award was passed in Award No.6 of 1994 on 28.09.1994. Insofar as the petitioner's land is concerned, a sum of Rs.2,45,000/- was ordered to be deposited under Sections 30 and 31 of the said Act before the competent civil court.

4. Therefore, the subject land belongs to the petitioner was already acquired and entire compensation amount was also deposited before the civil court in award No.6 of 1994 dated 28.09.1994. As such, the direction sought for in this writ petition cannot be considered and the writ petition is devoid of merits and liable to be dismissed.

5. Accordingly, this writ petition is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The District Registrar,
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Rangampalayam,
Erode 638 009.



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3.The Executive Engineer / Administrative Officer,
Tamilnadu Housing Board,
Surampatti, 4 Road,
Erode 638 009.

+lcc to the Government Pleader Sr.3005

+lcc to Mr.C.Prabakaran, Advocate Sr.2381

WP.No.10049 of 2020

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srg 04/02/2022