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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.8283 of 2014

&

M.P.No.1 of 2014

S.Murugan @ PoochiMurugan

... Petitioner

Vs.

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.
2. The Secretary to the Government of Tamil Nadu,
Department of Housing and Urban Development,
Fort St. George, Chennai -600 009.
3. The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 600 035.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first and second respondents to take appropriate action against the officers involved in the malpractice and proceed against them in accordance with the direction issued by Hon'ble Apex Court in Civil Appeal No's.6342 - 6343 of 2012.

For Petitioner : Mr.D.Ravindranathan

For R1 & R2 : Mr.M.Rajendiran
Additional Government Pleader

For R3 : Mr.S.Silambanam
Additional Advocate General
Assisted by Mr.R.Bharathkumar

O R D E R

The relief sought for in the present writ petition is to direct the 1st and 2nd respondents to take appropriate action against the officers involved in the malpractice and proceed



against them in accordance with the direction issued by Hon'ble Apex Court in Civil Appeal Nos.6342 - 6343 of 2012.

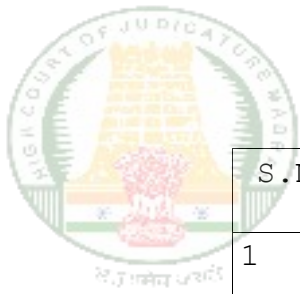
2. With reference to the grievances of the petitioner, this Court had directed the Tamil Nadu Housing Board to file a status report and the actions taken pursuant to the orders passed by the Hon'ble Apex Court of India.

3. The learned Additional Advocate General appearing on behalf of the 3rd respondent furnished the copy of the status report, which reads as follows:

In this connection, the action taken and proposed by Tamil Nadu Housing Board so far pursuant to the orders of the Hon'ble Supreme Court of India is placed below for kind perusal:-

1. Based on the report of the District Collector, Kancheepuram District vide his Letter No. 20225 / 13 / F-2 dated 19.09.2014, it was decided to initiate Criminal action against Thiru C.Rohini Vijayakumar, former Special Tahsildar (LA), TNHB Schemes as the NOC was issued by him on 04.03.2004. Accordingly, the Executive Engineer & Administrative Officer, K.K.Nagar Division was directed to file a Criminal case against Thiru. C. Rohini Vijayakumar, the then Special Tahsildar (LA), TNHB Schemes who issued NOC for the lands in S.No.283/1, 284/1, 2 & 3 at Tambaram village. Criminal complaint was filed by the Executive Engineer & Administrative Officer, K.K.Nagar Division before Tambaram Police Station vide Receipt No.86 / 2019 dated 01.02.2019. The Inspector of Police (Crime), S11, Tambaram Police Station, in his letter to the Executive Engineer & Administrative Officer, K.K.Nagar Division, had reported that Thiru. Rohini Vijayakumar, the then Special Tahsildar (LA), TNHB Schemes, had died on 09.07.2016 at 08.45 in B.S.S. Hospital, No.200, R.K.Mutt Road, Mandaveli, Chennai-28. The Inspector of Police had also reported that in view of the above no charge sheet could be filed against him and further enquiry is not possible. The supporting documents are set out in Annexure - A.

2. After due examination of the available records, Tamil Nadu Housing Board has come to a conclusion that the eight persons were incharge of the Scheme in question. It has been proposed to take appropriate action against 7 officials of the Board who had already retired. Specific Legal opinion is being sought to proceed against them in this matter in the manner known to law since all of them had retired long ago.



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S.No	Name of the Officials with Designation	Current Status
1	M.Mohammed Azizullah The then Executive Engineer & Administrative Officer (i/c)	Retired as Executive Engineer & Administrative officer on 31.05.2012
2	P.Joseph Rajarathinam The then Executive Engineer & Administrative Officer	Retired as Superintending Engineer / Chief Engineer (i/c) on 31.08.2013
3	P.Chandran, The then Executive Engineer & Administrative Officer (i/c)	Retired as Executive Engineer & Administrative Officer
4	S.Vijayakumar, The then Executive Engineer & Administrative Officer	Retired as Superintending Engineer on 31.01.2014
5	L.Frank Fernando, The then Assistant Executive Engineer	Retired as Executive Engineer & Administrative Officer on 30.11.2013
6	M.Vanaja, Assistant Engineer	Retired as Superintending Engineer on 30.06.2017
7	K.Senthil Kumar, Surveyor	Dismissed in another issue on 30.04.2019

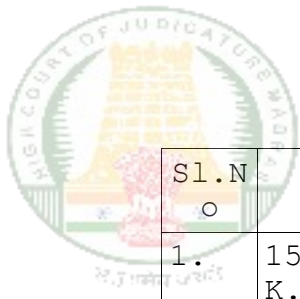
3. Charges against Tmt.P.Porkodi, the then Junior Engineer/Head Surveyor (i/c), now Assistant Executive Engineer, CIT Nagar Works Division under regulation 37 (b) of Tamil Nadu Housing Board Service Regulation 1969 is being framed for her lapses.

4. Further, it has also been decided to initiate Criminal action against the persons who were



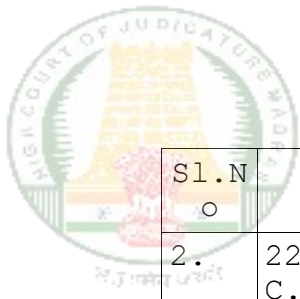
instrumental in putting up construction in the land belonging to Tamil Nadu Housing Board, in the manner known to law.

5. As ordered by Hon'ble Supreme Court in its order dated 18.09.2012 made in Civil Appeal Nos.6342 - 6343 / 2012, action to evict the encroacher could not be made in view of the pendency of the Writ Appeals filed by the Board as detailed below:-



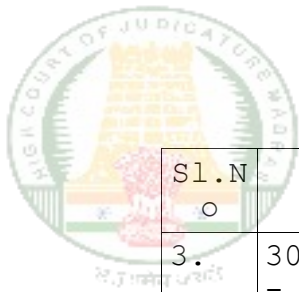
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Sl.No	Writ Petition	Prayer	Order	Writ Appeal
1.	1532/2013 - K.Srivatsan (Flat Owners)	To Consider and pass orders in respect of the representation made by the petitioner dated 01.10.2012	Writ petition is allowed with a direction to the petitioners to submit a fresh representation to the respondents within a period of two weeks from the date of receipt of a copy of this order. After receipt of the fresh representation from the petitioners, the respondents / competent authority shall pass orders, on merits, after conducting a comprehensive enquiry, considering the present prevailing condition of the property within a period of eight weeks from the date of receipt of the said fresh representation after prior notice to the petitioners and also in the presence of the petitioners.	Against this order, Tamil Nadu Housing Board has filed Writ Appeal Sr. No.49865 of 2015 before this Hon'ble High Court which is still pending adjudication .



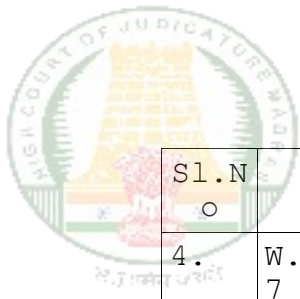
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Sl.No	Writ Petition	Prayer	Order	Writ Appeal
2.	2222/2013 - C.Durairaju & 20 ors. (Flat Owners)	To Consider and pass orders in respect of the representation made by the petitioner dated 01.10.2012	Writ petition is allowed with a direction to the petitioners to submit a fresh representation to the respondents within a period of two weeks from the date of receipt of a copy of this Order. After receipt of the fresh representation from the petitioners, the respondents / competent authority shall pass orders, on merits, after conducting a comprehensive enquiry, considering the present prevailing condition of the property within a period of eight weeks from the date of receipt of the said fresh representation after prior notice to the petitioners and also in the presence of the petitioners	Against this order, Tamil Nadu Housing Board has filed Writ Appeal No.110 of 2016 before this Hon'ble High Court which is still pending adjudication.



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Sl.No	Writ Petition	Prayer	Order	Writ Appeal
3.	30835/2014 - R.Janarthan an (Flat Owners)	To declare that pursuant to Section 24(2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) the acquisition proceedings of the respondents in G.O.No.826, Housing Urban Development Department issued a Notification dated 15.05.1978 is lapsed in respect to land extent of 2.26 acres comprised in Survey Nos.283/1, 284/1, 284/2 and 284/3 situated at Old State Bank Colony, 3 rd Street, West Tambaram, Chennai - 600 045 and the superstructure thereon and consequently forbear the respondents herein in any manner interfering with the peaceful possession of the petitioner.	Allowed on 21.01.2015	Against this order, Tamil Nadu Housing Board has filed Writ Appeal No.1101 of 2016 before this Hon'ble High Court and obtained interim stay on 16.09.2016 against order dated 21.01.2015 in Writ Petition. The Writ Appeal is still pending adjudication .



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Sl.No	Writ Petition	Prayer	Order	Writ Appeal
4.	W.P.No.2495 7 /2009 filed by Tvl. Chandraseka ran & Saraswathi Chandraseka ran (Subsequent Purchasers)	To process the revised planning permission	Hon'ble High Court in its order 20.07.2010 directed the CMDA (1 st respondent) to grant planning permission without insisting NOC from Tamil Nadu Housing Board.	Aggrieved, TNHB filed an Writ Appeal No.1626/2021 . Hon'ble High Court in its interim order dated 13.07.2021 ordered status quo. The main Writ Appeal is still pending adjudication .

4. In view of the said report, the respondents are directed to pursue the matter and complete all the disciplinary proceedings and other proceedings at the earliest possible, so as to arrive at conclusion with reference to the actions taken.

5. With these observations, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is close. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Jeni/kan

To

1. The Chief Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.



2. The Secretary to the Government of Tamil Nadu,
Department of Housing and Urban Development,
Fort St. George, Chennai -600 009.

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3. The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 600 035.

+1cc to the Government Pleader Sr.3417
+1cc to Mr.D.Ravindranathan, Advocate Sr.2427
+1cc to Mr.R.Bharathkumar, Advocate Sr.3311

W.P.No.8283 of 2014

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srg 04/02/2022