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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.26809 of 2021

and

W.M.P.Nos.28244 & 28247 of 2021

Badrivijayaraghavan
Through his Power Agent
K.V.Alagesan

...Petitioner

-Vs-

1. The Secretary,
Housing and Urban Development
Department, Fort St. George,
Chennai - 600 009.
2. The Special Thasildar (Land Acquisition)
Tamil Nadu Housing Board,
(Salem Housing Board Division)
Aiyyanthiru Maaligai,
Opp. Collector Bungalow,
Salem - 636 008.
3. The Thasildar (Land Acquisition)
Salem Housing Board,
Neighbourhood Scheme,
Aiyyanthiru Maaligai,
Opp. Collector Bungalow,
Salem - 636 008.
4. The Executive Engineer
& Administrative Officer,
Tamil Nadu Housing Board,
(Salem Housing Board Division)
Salem - 636 008.
5. The Join-II Sub Registrar,
Salem (West),
District Registrar Office,
Collector Office Complex,
3rd Floor, Salem - 8.

...Respondents

Prayer:-Writ Petition filed under Article 226 of the
Constitution of India praying for the issuance of a Writ of



Certiorarified Mandamus, to call for the records in impugned letter No.Ne.A.1/4280/03 dated 23.11.2020 on the file of the fourth respondent and to quash the same and consequentially direct the fifth respondent to entertain registration of transactions relating to the property bearing Plot No.29, measuring an extent of 1890 sq.ft., comprised in old S.F.No.95/2, present T.S.No.14/2, Ward 'F', Block No.12, Ayyanperumal Patti Village, Salem District.

For Petitioner : Mr.E.Omprakash,
Senior Counsel,
For Mr.P.Elayarajkumar
For M/s. Ramalingam & Associates

For Respondents
For R1 to R3: Mr.M.Muthusamy,
Government Advocate

For R4 : Mr.I.Sathish,
Standing Counsel

For R5 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The Writ Petition has been filed to call for the records in impugned letter No.Ne.A.1/4280/03 dated 23.11.2020 on the file of the fourth respondent and to quash the same and consequentially direct the fifth respondent to entertain registration of transactions relating to the property bearing Plot No.29, measuring an extent of 1890 sq.ft., comprised in old S.F.No.95/2, present T.S.No.14/2, Ward 'F', Block No.12, Ayyanperumal Patti Village, Salem District.

2.Heard Mr.E.Omprakash, learned Senior Counsel appearing for the petitioner, Mr.M.Muthusamy, learned Government Advocate appearing for the respondents 1 to 3, Mr.I.Sathish, learned Standing Counsel appearing for the fourth respondent and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the fifth respondent.

3.The petitioner owned property comprised in old S.F.No.95/2 present T.S.No.14/2, ad measuring 1890 sq.ft., situated at plot No.29 in Ward F, Block No.12, Ayyanperumalpatti Village, Salem District. The petitioner derived the title over the above said property, by the Will executed by his mother dated 09.05.2019 and his mother purchased the subject property by the registered sale deed dated 25.11.2009 vide document No.3746 of 2009. After her demise, the petitioner has become absolute owner of the



property and he continues to be in absolute possession and enjoyment of the subject property.

4. Thereafter, the petitioner approached the revenue officials for grant of patta. However, the petitioner was informed that already acquisition proceedings were initiated by the first respondent against the lands comprised in survey Nos. 94/4, 95/2 and 95/3B situated at Ayyamperumalpatti village, by issuing 4(1) notification in G.O.Ms.No.755 dated 04.09.1981. The said acquisition proceedings were challenged before this Court in W.P.No.10227 of 1986 and it was allowed by this Court by an order dated 07.03.1997 and quashed the acquisition proceedings. It was challenged by way of appeal in W.A.No.158 of 1999 and the Hon'ble Division Bench of this Court dismissed the Writ Appeal by an order dated 26.09.2008, thereby confirming the order passed by the learned single Judge of this Court. The said orders had attained finality and in terms of which no acquisition proceeding subsists and the properties vest with the individual and the subsequent transferees.

5. In fact, the petitioner also obtained information under the Right to Information Act from the second respondent that no step has been taken in continuation of the order passed by the Division Bench of this Court. Another information also received from the concerned Tahsildar that the land comprised in survey No.95/3A ad measuring 1360 sq.mt., out of 12 acres was not acquired by the Tamil Nadu Housing Board. In respect of the same, the fourth respondent had sent communication to the fifth respondent thereby raised objections not to registered any deed of conveyance in respect of the various properties including the subject property viz., the land comprised in Survey No.95/2. When the petitioner requested the fifth respondent to deed with the property through his Power of Attorney, the fifth respondent by the impugned order dated 16.08.2021 stated that the Tamil Nadu Housing Board requested that not to register any document in respect of the land comprised in survey No.95/2 situated at Ayyamperumalpatti Village.

6. The Hon'ble Division Bench of this Court, while confirming the order passed by the learned Single Judge, have observed as follows :-

"6..... if the appellants have implemented the order passed by the learned Single Judge, since the acquisition proceedings have been finalized. Instead of doing so, as directed by the learned single Judge, to proceed with the land acquisition proceedings from the stage of notice under Section 5A of the Act, approached this



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Court and filed the Writ Appeal and kept the proceedings pending. Now by virtue of filing the Writ Appeal, the acquisition proceedings are not reached the finality. Therefore, we consider it appropriate to confirm the order of the learned Single Judge with a direction to the second respondent to complete the land acquisition proceedings within a period of six months from the date of receipt of this order."

In spite of this order passed by the Hon'ble Division Bench of this Court, the respondents did not initiate any enquiry as contemplated under Section 5(A) of the Act in respect of the subject land. Therefore, the quashment of the acquisition proceedings had attained finality insofar as the subject land is concerned. Therefore, the fourth respondent cannot prevent the petitioner from deed with the subject property, since no acquisition proceeding is pending. Further, the petitioner cannot be deprived of the enjoyment of the property unless otherwise by due process of law and such a right is guaranteed under Article 300(A) of the Constitution of India.

7. In view of the above discussions, the impugned order dated 23.11.2020 in letter No. Ne.A.1/4280/03 on the file of the fourth respondent is hereby quashed. The fifth respondent is directed to entertain any deed of conveyance related to the property comprised in old S.F.No.95/2 present T.S.No.14/2, ad measuring 1890 sq.ft., situated at plot No.29 in Ward F, Block No.12, Ayyanperumalpatti Village, Salem District.

8. Accordingly, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

rts

To

1. The Secretary,
Housing and Urban Development
Department, Fort St. George,
Chennai - 600 009.



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3rd Floor, Salem - 8.

+2cc to Mr.Ramalingam and Associates, Advocate, S.R.No.3339
+1cc to Mr.I.Sathish, Advocate, S.R.No.3639
+1cc to the Government Pleader, S.R.No.3690, 3706

W.P. No.26809 of 2021 and
W.M.P.Nos.28244 & 28247 of 2021

MT(CO)
RGA(15/02/2022)