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W.P.No.33224 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.33224 of 2022

M.Balaraman

... Petitioner

Vs

- 1.The Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Secretariat, Chennai – 600 009.
- 2.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai – 600 035.
- 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 – 600 040.
- 4.The Special Tahsildar,
Tamil Nadu Housing Board,
K.K.Nagar Division,
Chennai.
- 5.The Tahsildar,
Maduravoyal Taluk,
Nolambur, Chennai District.

... Respondents



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Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 5th respondent to issue the patta to the petitioner for his land and House site, bearing Plot No.42 in 1st Cross Street, Muniyappa Nagar, situated at Nerkundram Village, Maduravoyal Taluk, Chennai District, comprised in Survey No.123, measuring an extent of 1250 sq.ft. land with House thereon with E.B. Connection, and lying within the Registration District of Chennai South and Sub Registration District of Virugambakkam.

For Petitioner : Mr.L.G.Sahadevan
For Mr.A.Ilayaperumal

For Respondents : Mr.P.Sathish
Addl. Government Pleader
for R1, R4 & R5

: Mr.A.M.Ravindranath Jeyapal
Standing Counsel for R2 & R3

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the 5th respondent to issue patta to the petitioner for his land and House site, bearing Plot No.42 in 1st Cross Street, Muniyappa Nagar, situated at Nerkundram Village, Maduravoyal Taluk, Chennai District, comprised in Survey No.123, measuring an extent of 1250 sq.ft. land with House thereon with E.B. Connection, and lying within the Registration District of Chennai South and Sub Registration District of Virugambakkam.



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2. In respect of piece of land to the extent of 1250 sq.ft. which is form part of Survey No.123 at Nerkundram Village, it was purchased by the petitioner on 14.11.1986 from the original owner since then, according to the petitioner, the petitioner had been in possession and enjoyment of the property. When the petitioner made an application to issue patta to the 5th respondent, it seems that the 5th respondent has insisted the petitioner to get a No Objection Certificate to be issued by the Tamil Nadu Housing Board. Insofar as the said land is concerned which is part of the entire extent of Survey No.123 as referred to above, the said survey number as well as so many other survey numbers to the larger extent of land seems to have been acquired for the purpose of housing development, in this regard the Tamil Nadu Housing Board will be the beneficiary.

3. However, the notification issued in this regard under the Land Acquisition Act as well as the declaration made under Section 6 of the said Act in G.O.Ms.No.992 Housing Department have been questioned before this Court at the earliest point of time by the Association called Sri Muniappan Nagar Plot Owners and Residents Welfare Association, where the original owners of these properties to the larger extent at various survey numbers are the members.



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4. When that writ petition came to be decided by a Division Bench order of this Court dated 28.01.1988, the Division Bench has passed the following order:

“The petitioner is an Association called Sri Muniappa Nagar Plot Owners and Residents Welfare Association represented by Secretary M.Pandian. It was not the owner on the date of notification under Section 1(1) or the declaration under Sec. 6. The names of the original owners and the survey numbers of the lands they held are:

<u>Survey Nos.</u>	<u>Name of</u>
115	Anandan
123 & 124	Kannappa Devar, Ethiraj Devar and Chengalvaraya Devar
125/1	Thiyagarajan
126/2	Chockalingam
127/2, 136/2 & 137/1 & 2	Aaron
125/2	Venkatasubbiaya Reddiyar
125/3	Dhanapal & Chinnammal
126/1A	Chellammal & Arumugam
126/1B, 136/1 & 126/31	Kathirvelu
127/1	R.Pattammal
126/3B	Sundarama Reddy



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Only the aforementioned persons shall have the benefit of our judgment in L.N. VENKATESAN V. STATE OF TAMIL NADU (W.P.No.10351 of 1982 batch dated 8.1.1988). The other members of the Association will not have this benefit since they are subsequent purchasers. The writ petition is allowed with costs of Rs.500/- and section 6 declaration alone is quashed, as against persons whose names are mentioned above. As against others, it is dismissed with costs of Rs.500/-.”

5. Relying upon this judgment, Mr.L.G.Sahadevan, learned counsel appearing for the petitioner would submit that the said judgment of the Division Bench quashing the 4(1) Notification as well as 6 declaration issued in this regard by the Land Acquisition Authority for various extent of land including Survey No.123 where an extent of 1250 sq.ft. land was plotted out and purchased by the petitioner from the legal heirs of the erstwhile owner one Chengalvaraya Devar whose name since also has been mentioned in the said Division Bench order referred to above and thereafter since no further action has been taken by either the acquisition authority and the Tamil Nadu Housing Board the requisition authority and no further appeal has been filed, the judgment of the Division Bench has become final, therefore the acquisition proceedings has been given up.



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6. When that being so, when patta was sought for by the petitioner from the Revenue Tahsildar who insisted upon to get NOC from the Tamil Nadu Housing Board and to produce the same, then only his application to issue the patta would be considered, the stand taken by the Revenue Tahsildar is fully unjustifiable, because, the Tamil Nadu Housing Board is no more owner of the property and no acquisition proceedings in respect of the said land is pending, when that being so, driving the petitioner to go before the Tamil Nadu Housing Board to get NOC is an unwarranted exercise, by thus, the petitioner every right to get patta for his land is deprived of, therefore the learned counsel for the petitioner seeks indulgence of this Court.

7. Heard Mr.P.Sathish, learned Additional Government Pleader appearing for the respondents 1, 4 & 5 who would submit that, if the land acquisition proceedings already been quashed and thereafter no further proceedings has been taken by the acquisition authority or requisition authority and at this length of time of more than 30 years, it may not be justifiable on the part of the 5th respondent to seek for NOC from the Tamil Nadu Housing Board, but anyhow it is for the Court to ultimately take a



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decision as to whether the petitioner's plea can be considered by the 5th respondent independently without insisting upon an NOC.

8. However, Mr.A.M.Ravindranath, learned Standing Counsel appearing for the Tamil Nadu Housing Board on instructions would submit that, several judgments have been passed challenging the Notification under Land Acquisition proceedings as well as declaration made in this regard and this notification having been considered and quashed. However, insofar as Survey No.123 is concerned, those judgments which have been made very recently having covered the survey number.

9. If at all the said Survey No.123 wherein the petitioner's land also is squarely covered by the earlier decision made in the year 1988 as pointed out by the learned counsel for the petitioner, that aspect has to be verified by the respondent Tamil Nadu Housing Board as to whether any subsequent proceedings which are pending so far and without which the plea raised by the petitioner not to get an NOC from the Housing Board cannot be considered and moreover, without an NOC being issued by the Tamil Nadu Housing Board and producing the same before the Revenue Tahsildar, he cannot be in a position to consider the plea of the petitioner to issue a patta.



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10. I have considered the said rival submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

11. It is in black and white a Division Bench of this Court as early as in the year 1988 quashed the land acquisition proceedings including the land situated at Survey No.123.

12. The owner of the Survey No.123 also has been mentioned in the said Division Bench order referred to above and from the legal heirs of the said owner only the petitioner claims to have purchased the property on 14.11.1986 i.e. well before the judgment even.

13. After the order passed by the Division Bench referred to above in the year 1988 quashing the land acquisition proceedings, so far no further proceedings have been initiated and at this length of time, such a proceedings also cannot be initiated in view of the legal development.



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14. Therefore, at this juncture when a petition is moved by the petitioner to get patta from the Revenue Tahsildar, he cannot insist upon to get NOC from the Tamil Nadu Housing Board as it is neither the owner of the property nor he is a party in pending land acquisition proceedings with regard to the survey number. Therefore, this Court has no hesitation to hold that such an insistment if any being made by the Revenue Tahsildar is totally unwarranted and unjustifiable, therefore on that ground the Tahsildar need not be detained from considering the application submitted by the petitioner for getting patta.

15. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

There shall be a direction to the 5th respondent/Tahsildar to consider the application submitted by the petitioner for getting patta for Plot No.42 in 1st Cross Street, Muniyappa Nagar, situated at Nerkundram Village, Maduravoyal Taluk, Chennai District comprising in Survey No.123 measuring an extent of 1250 sq.ft. land with house thereon and pass necessary orders to that effect for grant of patta. The needful as



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indicated above shall be undertaken by the 5th respondent/
Tahsildar within a period of four weeks from the date of receipt
of a copy of this order.

16. With this direction, this Writ Petition is ordered accordingly.

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Index : Yes / No

Speaking Order : Yes / No

Sgl



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R. SURESH KUMAR, J.

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