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W.P. No.33615 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.33615 of 2018

and

W.M.P.No.39010 of 2018

C.Balasubramanian

... Petitioner

Vs

1.The State of Tamil Nadu,
Rep by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai – 600 009.

2.The Managing Director,
Tamilnadu Housing Board,
Nandanam,
Chennai – 600 035.

3.The Executive Engineer/Administrative Officer
(Incharge),
Tamilnadu Housing Board,
Coimbatore Housing Unit,
Tatabad, Coimbatore – 641 012.

4.The Tahsildar,
Coimbatore North Taluk,
Coimbatore District,
Coimbatore – 641 018.

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication of the 3rd respondent to the 4th respondent in Letter No.Ne.A4/6851/08 dated 12.09.2018 with its annexure in respect of S.No.836 of Kaalapatty Village, Coimbatore District in Serial Number 9 of Block No.66, to an extent of 8.66Acres alone, quash the same and consequently direct the 4th respondent to transfer the Patta No.2165 in favour of the petitioner in respect of his land in an extent of 4875 Sq.ft bearing site No.19 in the layout called as “Sri Krishna Residency”.

For Petitioner : Mr.P.P.Shanmugasundaram

For Respondents : Mr.N.Naveen Kumar
Government Advocate
for R1 & R4
Mr.D.Murugan
Standing Counsel
for R2 & R3

ORDER

The petitioner has filed this writ petition for a certiorarified mandamus, to call for the records relating to the impugned communication of the 3rd respondent to the 4th respondent in Letter No.Ne.A4/6851/08 dated 12.09.2018 with its annexure in respect of S.No.836 of Kaalapatty Village, Coimbatore District in Serial Number 9 of Block No.66, to an extent of 8.66Acres alone, quash the same and consequently direct the 4th respondent to transfer the Patta



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No.2165 in favour of the petitioner in respect of his land to an extent of 4875 Sq.ft bearing site No.19 in the layout called as “Sri Krishna Residency”.

2.By the impugned communication, the 3rd respondent has informed the 4th respondent to effect transfer of patta only after a “No Objection” is issued by the 2nd and 3rd respondents/Tamil Nadu Housing Board.

3.The specific case of the petitioner is that the petitioner had purchased an extent of 4875 Sq.ft of land in S.No.836 of Kalapatti Village, Coimbatore Taluk and District bearing Site No.19 in the layout prepared by one V.Dhanamani and another called “Sri Krishna Residency”.

4.It is submitted that before the layout was formed the vendors had purchased an extent of 4.16 ½ acres of Punja land by way of two sale deeds which was registered as Document No.1984 of 2010 dated 01.03.2010 from K.Thirumoorthy and three others and from Tmt.Kaasammal and three others vide Document No.2007 of 2010 dated 22.03.2010 on the file of SRO, Gandhipuram respectively.



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5.The petitioner claims to have purchased an extent of 4875 Sq.ft of land vide sale deed dated 25.03.2010 registered as Document No.2166 of 2010 in respect of which the petitioner appears to have sent a representation. It is submitted that land in question was sought to be acquired under the provisions of the Land Acquisition Act, 1894 and that the aforesaid land acquisition proceedings have been quashed by an order dated 12.06.2009 in W.P.Nos.22718 and 24080 of 2008.

6.It is submitted that in view of above order setting aside the land acquisition proceedings of the Government, the question of petitioner getting no objection from the Housing Board does not arise.

7.The learned counsel for the respondents on the other hand would submit that the order passed by the Court in W.P.Nos.22718 and 24080 of 2008 on 12.06.2009 is not binding on the department. It is submitted that the housing board was not made as a party to the aforesaid proceedings.

8.That apart, it is submitted that land acquisition proceedings were completed way back in the year 1994 itself and the amount awarded were also



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deposited in the year 1994 itself. Therefore, the petitioner is not entitled to challenge the impugned order indirectly. That apart, it is submitted that the impugned communication is an internal communication between the 3rd and 4th respondents. It is further submitted that the total extent of land which was acquired measured an extent of 8.66 acres out of which, the petitioner appears to have purchased only an extent of 4875 Sq.ft by way of sale deed dated 25.03.2010 vide Document No.2166 of 2010 and therefore the petitioner cannot ask for a writ of certiorarified mandamus.

9.I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

10.The order of this Court in W.P.Nos.22718 and 24080 of 2008 challenges land acquisition and therefore the respondents cannot insist on the petitioner for obtaining a no objection from the 3rd respondent and thereby delay the issuance of patta in favour of the petitioner as much as order dated 12.06.2009 in W.P.Nos.22718 and 24080 of 2008 has not been challenged in the manner known to law. Notwithstanding the fact that Tamilnadu Housing Board is not a party in the above proceedings, the respondents are bound by order setting aside the land under the Land Acquisition Act.



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11. Considering the above, I am inclined to dispose this writ petition by directing the 4th respondent to issue patta in favour of the petitioner within a period of six months from the date of receipt of a copy of this order.

12. However, liberty is given to the respondents to take appropriate steps for nullifying the order passed in W.P.Nos.22718 and 24080 of 2008 dated 12.06.2009, if it is the case that the aforesaid order dated 12.06.2009 in W.P.Nos.22718 and 24080 of 2008 was passed without notice to the Tamilnadu Housing Board. It is made clear that in absence of any steps taken to nullify the aforesaid order, name transfer in the patta cannot be countenanced.

13. This writ petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

10.11.2022

Index: Yes/ No
Internet : Yes/No
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C. SARAVANAN, J.

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