



W.P.(MD)No.8770 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8770 of 2022

and

W.M.P.(MD)No.6384 of 2022

Kaleel Rahman

... Petitioner

Vs.

1.The Revenue Divisional Officer,
Agastheeswaram Taluk,
Nagercoil Post,
Kanyakumari District.

2.The Superintending Engineer,
Administrative Officer,
Tamil Nadu Housing Board,
17D.C.Colony Perumalpuram,
Tirunelveli,
Tirunelveli District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the first respondent in Na.Ka.No.A3/63/2014, dated 28.08.2018 and quash the same and consequently, direct the respondents to issue “No Objection Certificate” for registration of sale insofar as relating to the petitioner's property in R.S.No.L5/10-3 in ULT/719-140 admeasuring 41.5 cents of



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Vadeveeswaram Village, Agatheeswaram Taluk, Kanyakumari District.

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For Petitioner : Mr.A.Rajkumar Sen

For R1 : Mr.M.Prakash
Additional Government Pleader

For R2 : Mr.S.Velmurugan

ORDER

Heard the learned counsel on either side.

2. The petitioner purchased the petition mentioned property vide sale deed dated 16.12.2013. The petitioner wanted to deal with the property. But No Objection Certificate was required from the second respondent. When the petitioner moved the first respondent in this regard, the first respondent called upon the second respondent to clarify if any appeal has been filed by the Government. Since there was no further response from the respondents, the present writ petition came to be filed.



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3. When the matter was taken up for hearing, the learned standing counsel appearing for the Housing Board took me through the counter affidavit filed by the second respondent. The second respondent has stated that the proceedings were initiated for acquiring 7.25 acres of land way back in the year 1991. The award was passed on 30.06.1993. The land comprised in T.S.No.L.5/10-3 stood in the name of Ammalkani Nadachi, Saraswathi & Pachiyammal Nadar. It is further stated that only the son of Pachiyammal Nadar and wife of one Thiagarajan claimed compensation and others did not. Therefore, compensation was worked out and the amount was also deposited in the Court. It is further claimed that the case was referred to Sub Court, Nagercoil under Section 31(2) of the Land Acquisition Act, 1894.

4. According to the learned standing counsel, the petitioner has no *locus standi* as he is only a subsequent purchaser. He also would state that the question of re-conveying would not arise at all. After hearing the learned counsel on either side, I am satisfied that the case for interference has been made out.



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5. The petitioner's counsel drew my attention to the order dated 03.12.1999 made in W.P.No.11367 of 1991. The petitioners therein were Pachammal, Ammalkani, Saraswathi & Vaikundamani, the very names referred to in the counter affidavit. It is seen therefrom that the acquisition proceedings initiated way back in 1990 were put to challenge. A learned Judge of this Court came to the conclusion that there was a clear violation of Rule 3(b) and on that ground, quashed the entire land acquisition proceedings. That is why, the first respondent in his communication dated 16.11.2021 wanted to know from the second respondent as to whether any appeal had been filed. Of-course, the said communication could have contained the details relating to W.P.No. 11367 of 1991.

6. The learned standing counsel is not able to place any material to show that the order dated 03.02.1999 made in W.P.No.11367 of 1991 has been set aside or reversed. Thus, the resultant position is that the entire proceedings were quashed. The original land owners or their legal heirs were very much entitled to sell the property to the petitioner herein. When the land acquisition proceedings have been quashed, it means that



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the property is the private property of the petitioner herein. The question of obtaining No Objection Certificate does not arise. In any event, the petitioner's counsel states that there will be difficulties at the time of registration. The impugned communication is quashed. The respondents are directed to issue No Objection Certificate to enable the petitioner to deal with the petition mentioned property.

7. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN,J.



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