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W.P.No.13851 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 14.12.2023

Pronounced on : 22.12.2023

CORAM : JUSTICE N.SESHASAYEE

W.P.No.13851 of 2021

Rajagopalan

...

Petitioner

Vs

- 1.The Principal Secretary to Government
Housing and Urban Development Department
Fort St.George, Chennai - 600 009.
- 2.The Managing Director
Tamil Nadu Housing Board
Nandanam, Chennai - 600 035.
- 3.The Executive Engineer &
Administrative Officer
Tamil Nadu Housing Board
Coimbatore Division
Tatabad, Coimbatore - 641 012.
- 4.The District Collector
Coimbatore.
- 5.The Tahsildar
Coimbatore North Taluk
Kalapatti Village.



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6. The District Registrar
Coimbatore.

... Respondents

[R4 to R6 suo motu impleaded vide Court order dated
08.08.2023 made in W.P.No.13851 of 2021]

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st, 2nd and 3rd respondents to issue No Objection Certificate for an extent of 1.30^{1/4} acres in S.No.364/2A owned by the petitioner in Kalapatti Village, Coimbatore North Taluk.

For Petitioner : Mr.Muthumani Doraisami

For Respondents : Mr.A.Anandan
Government Advocate for R1
Mr.V.Gunasekar for R2 & R3

ORDER

The petitioner herein is the land owner whose property was notified for acquisition for the purposes of TNHB, the second respondent herein. There were disputes before this Court regarding the acquisition, and finally, it all culminated in a statement prepared by the TNHB, which indicated the lands



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that it proposed to retain for its purposes and the lands that it did not want.

This statement was made available by the TNHB in W.P.No.16417 of 1998, etc., batch.

2.The petitioner's property is in Sy.No.364/2A of Kalapatti Village. In the report of the TNHB referred to above, the property of the petitioner in S.No.364/2 (later sub-divided as S.No.364/2A) was specifically excluded. Indeed, the report of the TNHB has two parts. The first part deals with the list of properties which the TNHB opted to retain, and the other part which they opted to forgo. This court found that in the first part, the petitioner's S.No.364/2 does not find a place, whereas it finds a place in the second part. This report also finds a prominent place in the order of this Court in W.P.16417 of 1998 batch, dated 30.08.2010 from Paragraph 7 upwards, which later came to be confirmed in W.A.No.422 of 2011 batch etc.,

3.The learned counsel for the petitioner submitted that notwithstanding the fact that the TNHB had notified that it no longer required the part of the land it originally notified, yet a land owner could not deal with their property since the Revenue and Registration Authorities require a NOC from the TNHB.



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Hence the petitioner has made a representation, dated 03.05.2021 to the TNHB, the second respondent herein for issuance of NOC, and it was not forthcoming, it has filed the present petition.

4. This Court now *suo motu* impleads the District Collector, Coimbatore, Tahsildar, Coimbatore North Taluk, Kalapatti Village and the District Registrar, Coimbatore as respondents 4, 5 and 6. Mr.A.Anandan, the learned Government Advocate takes notice for the newly impleaded respondents 4, 5 and 6.

5. When a property is no more required by the TNHB, and it has also declared its intent before this Court in W.P.16417 of 1998, then it is hardly necessary for the owner of the land to queue up before the TNHB for issuance of NOC. A simple matter which could have been easily resolved, if only TNHB had thought it fit to circulate its decision to release certain properties to the Revenue and Registration Authorities, is now unnecessarily engaging this Court.

6. Per contra, Mr.V.Gunasekar, learned counsel for TNHB made the



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following submissions :

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- (a) that the present writ petitioner was not a party to the earlier proceedings in W.P.No.16417 of 1998 batch etc;
- (b) that in the list prepared and presented before the Court, the TNHB has got two parts; that the first part deals with the properties which the TNHB is given to retain, and the second part lists the properties which are not required. Now, even though the property in relation to which the petitioner now seeks NOC is included in the second part of the list, unless the extent covered by these survey numbers are included in the first list at appropriate place, the total extent intended to be retained by TNHB cannot be achieved.
- (c) So far as the prayer is concerned, because the TNHB requires this property covered under Sy.No.364/2A of Kalapatti Village, NOC cannot be granted.

7. The rival submissions are weighed carefully. What is not in dispute is that during the pendency of W.P.No.16417 of 1998, etc., batch, TNHB has made a categorical statement regarding the properties which it wants to retain, and also produced before the Court, a list of properties that it intends to give up.



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When this statement is made before the Court, it is not confined only to the parties before the Court, but it is a statement made in relation to the properties acquired by it. Hence, this Court cannot appreciate the submissions of the counsel for the TNHB that the statement so made by TNHB in W.P.No.16417 of 1998, etc., batch is confined only to the parties to that proceedings. Indeed, this statement has been relied on by a Division Bench of this Court in W.A.No.422 of 2011 batch etc.,

8.1 Turning to the next part, this is more about arithmetics. The entire properties acquired by TNHB in Kalapatti village was divided into several blocks, of which each block comprises of few survey numbers. So far as the present case is concerned, the land falls under Block No.35, and it specifically includes the properties in Sy.No.364/2 measuring 3.24 acres. According to TANGEDCO, there are other survey numbers in this block, which the TNHB has chosen to retain, and the combined extent of the properties so retained cannot be what it is provided in the statement given to the Court, unless Sy.No.364/2 is included. This is a romantic idea which the TNHB has entertained at this distant point of time. What if the total extent as given in the statement itself is wrongly given? When the statement as made



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before the Court specifically indicating a property blocked in a specific survey field is not required for the purposes of TNHB, then it is inappropriate for it to take a different stand merely because the present petitioner was not before the Court earlier.

8.2 The core contentions of TNHB therefore fails. When once it fails, the TNHB has little option but to issue a NOC if required.

9. To conclude, this Court directs the TNHB to issue NOC to the petitioner within four weeks from today. If however TNHB fails to issue the NOC, then all other statutory officials of the concerned Sub Registry are required to act on the basis of the copy of this order, and to make appropriate changes in their respective records.

10. The petition is allowed accordingly. No costs.

22.12.2023

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order
ds



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N.SESHASAYEE.J.,

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Pre-delivery order in
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