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W.A.No.3689 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

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K.Raghupathy (Died)

1. K.Lakshmipathy

2. K.Chitralega

3. K.Vijayasankar

4. K.Subiksha

5. R.Rajamani

6. R.Subash Chandar

7. R.Indu Priyadharshini

(Cause title accepted vide order of Court

dt. 7.9.18 in CMP.15585/18 in

WA.SR.28564/16)

.. Appellants

v.

1. The Managing Director

Tamil Nadu Housing Board

Nandanam

Chennai 600 035

2. The Executive Engineer and

Administration Officer



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Coimbatore Housing Unit
Tatabad

Coimbatore 641 012

3. The Special Tahsildhar
Land Acquisition (Housing Scheme No.II)
Coimbatore .. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 18.12.2015 made in W.P.No.10043 of 2014.

For Appellants :: Mrs.M.Shirijha

For Respondents :: Mrs.C.Shyaamala
Standing Counsel for R1 & R2
Mr.U.M.Ravichandran
Special Government Pleader for R3

JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

This intra-Court appeal has been preferred by the appellants aggrieved by the order dated 18.12.2015 passed in Writ Petition No.10043 of 2014.

2. Heard both sides.

3. It is the case of the appellants that the land comprised in S.F.No.267/5 to an extent of 1.18.0 hectares and the land comprised in



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S.F.No.268/3 to an extent of 0.99.0 hectares of Vilankurichi Village, Coimbatore Taluk, were subjected to land acquisition proceedings for construction of houses under the Ganapathy Neighbourhood Scheme Phase-II by the Tamil Nadu Housing Board by issuance of a notification under Section 4(1) of the Land Acquisition Act, 1894 on 07.05.1995, followed by a declaration under Section 6 on 17.06.1996, by the respondents. The said acquisition proceedings were challenged by Tmt.K.Savithiriammal in Writ Petition No.18730 of 1996, on the ground that the notification under Section 4(1) and the declaration under Section 6 were issued in the name of her father Mr.Thiruvenkatasamy, who died way back on 06.03.1987. By order dated 07.02.2004, the said writ petition came to be allowed by quashing the declaration issued under Section 6. Therefore, Tmt.K.Savithiriammal filed the intra-Court appeal in W.A.No.2105 of 2004 seeking to quash the entire acquisition proceedings. The said appeal was also allowed by order dated 17.06.2006 with liberty to the respondents to initiate fresh proceedings in accordance with law. On the strength of the said order, Tmt.K.Savithiriammal made a representation on 20.07.2007 to the respondent-Housing Board requesting for 'No Objection Certificate'



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regarding the property in S.F.Nos.267/5 and 268/3 of Vilankurichi Village, Coimbatore Taluk. As no order was passed on her representation, she filed the Writ Petition No.30785 of 2007 seeking a mandamus to the respondents to consider and pass orders on the same. By order dated 21.09.2007, this Court disposed of the said writ petition by directing the respondents to pass orders as per law within a period of sixteen weeks from the date of receipt of a copy of the order. However, by proceedings dated 13.09.2010, the respondent-Housing Board informed Tmt.K.Savithiriammal that they intend to file a review petition against the order dated 17.06.2006 passed in W.A.No.2105 of 2004. Therefore, she once again filed the Writ Petition No.21525 of 2011 seeking to quash the proceedings dated 13.09.2010 and this Court, by order dated 29.10.2011, set aside the same and directed the respondents to pass appropriate orders within a period of two weeks from the said date. Based on the said order, she again made a representation on 09.12.2011 requesting for 'No Objection Certificate' regarding the aforesaid property. Citing a reason vide the memo dated 14.12.2012 that the Writ Petition No.16612 of 2004 in respect of the land acquisition regarding S.No.268/3 of Vilankurichi village was pending before this Court, the claim



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of Tmt.K.Savithiriammal was not considered by the respondents. In the meanwhile, since Tmt.K.Savithiriammal died on 13.09.2012, her legal representatives, namely, two sons, daughter-in-law and two grand children pursued the matter before the respondents stating that the said writ petition was also allowed by this Court by order dated 13.03.2013. According to the appellants, the land acquisition proceedings stood quashed in respect of the entire extent comprised in S.Nos.267/5 and 268/3 with the liberty as mentioned already and the said order has become final. Thereafter, another representation dated 15.09.2013 was submitted by one of the legal heirs of Tmt.K.Savithiriammal to the respondent Housing Board seeking for issuance of 'No Objection Certificate' in respect of the aforesaid property. As there was no response, Writ Petition No.10043 of 2014 was filed before this Court seeking a mandamus to the respondents to issue the 'No Objection Certificate' in favour of the writ petitioners in respect of the aforesaid property. By order dated 18.12.2015, the writ Court has dismissed the writ petition on the ground that the writ petitioners have not produced any document showing that they are in possession and the subject lands have been utilized by the respondent Housing Board for the purpose of



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neighbourhood scheme. Hence, this appeal.

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4. A counter affidavit dated 20.06.2023 has been filed by the second respondent taking a stand that the possession of the land is yet to be handed over by the Special Tahsildar, Land Acquisition to the Tamil Nadu Housing Board. It is also stated that Tmt.Savithriammal had successfully obtained orders in her favour and the SLP filed against the order dated 17.06.2006 passed in W.A.No.2105 of 2004 was also dismissed by the Supreme Court vide order dated 01.08.2014.

5. Though the writ Court has dismissed the writ petition observing that the writ petitioners have not produced any document, the appellants have filed the legal heirship certificate dated 26.12.2012 before this Court to show that they are the legal heirs of the deceased Tmt.K.Savithriammal. However, at this stage, we are not inclined to go into the issue whether the appellants are entitled to the grant of patta, which will have to be decided by the revenue authorities independently, since we are now dealing with the request for issuance of 'No Objection Certificate' by the respondent Housing



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Board in this appeal. Prima facie, the appellants have filed the legal heirship certificate issued by the Tahsildar, Coimbatore South claiming that they are the legal heirs of the deceased Tmt.K.Savithiriammal. In such circumstances, the respondent Housing Board cannot have any objection or right to reject their application. Further, there is no acquisition proceedings pending in respect of the subject lands, in the light of the orders passed by this Court allowing the writ petitions filed by Tmt.K.Savithiriammal, and knowing the said fact, the Housing Board has not chosen to pass orders for issuing the 'No Objection Certificate' to the appellants. This attitude of the Housing Board for delaying or not furnishing the 'No Objection Certificate' to the appellants, even after the orders of this Court have attained finality, is highly deprecated. In such circumstances, finding merits on the submissions made by the learned counsel appearing for the appellants, taking a serious view on the conduct of the respondent Housing Board in not issuing the 'No Objection Certificate' for more than 10 years, we are inclined to interfere with the order passed by the writ Court.

6. For all the aforesaid reasons, the order passed by the writ Court is set aside and the writ appeal stands allowed with a direction to the



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respondents 1 & 2 to issue the 'No Objection Certificate' in respect of the lands in S.F.Nos.267/5 & 268/3 of Vilankurichi Village, Coimbatore Taluk to the appellants within a period of four weeks from the date of receipt of a copy of this order. Consequently, C.M.P.No.23466 of 2019 is closed. No order as to costs.

(D.K.K.,J.) (P.B.B,J.)
20.07.2023

Index : yes/no
Neutral citation : yes/no

SS

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