



W.P.(MD).No.19134 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **14.07.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD).No.19134 of 2022
and W.M.P(MD).Nos.13967 and 13968 of 2022

S.Sheik Ibrahim

... Petitioner

Vs.

1.The District Registrar,
Department of Registration,
Madurai (South),
Madurai District.

2.The Sub-Registrar,
Range No.4,
Palanganatham,
Madurai South,
Madurai.

3.The Administrative Director,
Tamil Nadu Housing Board,
Chennai.

4.The Executive Engineer/Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Board Division,
Ellis Nagar,
Madurai.

...Respondents



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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the fourth respondent in Lr.No.L.A/Sur/00736/2015 dated 01.11.2021 insofar as the same relates to the property of the petitioner to an extent of 0.63 acres situated at S.No.223/7, Madakulam Village, Madurai District and quash the same.

For Petitioner : Mr.H.Jasima Yasmin

For Respondents :Mr.G.V.Vairom Santhosh
Additional Government Pleader
for R1 and R2
Mr.R.Sivakumar for R3 and R4

ORDER

The petitioner claims that he is the owner of the property in Survey No.223/7, situated at Madakulam Village, Madurai District. He inherited the property from his father, namely, Sheik Mohideen. While so, the petitioner along with his brothers and sisters intended to partition the property among themselves and submitted a partition deed for registration before the second respondent. However, the second respondent directed the petitioner to obtain a No Objection Certificate from the fourth respondent, namely, the Executive Officer of Tamil Nadu



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Housing Board and has issued a copy of the impugned proceedings of the fourth respondent dated 01.11.2021, wherein, the fourth respondent directed the second respondent not to register any document pertaining to the above mentioned survey number. Aggrieved over the same, the present Writ Petition has been filed.

2. The learned counsel appearing for the petitioner submits that the land in Survey No.223/7 situated at Madakulam Village, Madurai District was acquired by the Tamil Nadu Housing Board in the year 1971. A Notification issued to that effect under Section 4(1) of the Land Acquisition Act and the declaration made under Section 6 of the said Act were challenged by the petitioner's father in W.P.No.12145 of 1986 before the Principal Bench of this Court and the Principal Bench of this Court, vide order dated 17.01.1994, has quashed the declaration made under Section 6 of the said Act. Therefore, there is no necessity to get the No Objection Certificate from the fourth respondent Board for registration of the document.



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3. The learned Standing Counsel appearing for the fourth respondent Board, by referring to G.O.Ms.(D).No.244, Housing and Urban Development (N.A.3(1)) Department, dated 14.07.2008, submits that pursuant to the order of the Principal Bench of this Court, the proposal for acquiring the land has been dropped with a condition that after ensuring the pathway for the land which has already been acquired, No Objection Certificate shall be furnished. Therefore, the second respondent insisted the petitioner to get the No Objection Certificate from the fourth respondent based on the said Government Order.

4. This Court considered the rival submissions made by the learned counsel appearing for the parties.

5. Admittedly, the declaration made under Section 6 of the Land Acquisition Act for acquiring the land of the petitioner in Survey No.223/7 situated at Madakulam Village, Madurai District, has already been quashed by the Principal Bench of this Court in the writ petition filed by the petitioner's father in W.P.No.12145 of 1986 on 17.01.1994. Therefore, the fourth respondent cannot direct the second



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respondent not to register any document pertaining to the said survey number and in turn, the second respondent cannot direct the petitioner to get the No Objection Certificate. If at all the fourth respondent Board is requiring any land from the petitioner for the purpose of pathway to the road, they have to initiate appropriate proceedings for acquiring the land in accordance with law. By referring to G.O.Ms.(D).No.244, Housing and Urban Development (N.A.3(1)) Department, dated 14.07.2008, which was passed in the year 2008, they cannot reject the document presented for registration. Hence, this Court is inclined to set aside the impugned proceedings of the fourth respondent in Lr.No.L.A/Sur/00736/2015 dated 01.11.2021, insofar as the petitioner's land is concerned.

6. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

14.07.2023

Index: Yes/No
Internet: Yes/No
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B.PUGALENDHI, J.

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