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W.P.(MD)NO.29731 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.29731 of 2023

S.Thennarasu

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Housing Board,
CMDA Complex, E&C Market Road,
Koyambedu,
Chennai – 600 107.

2. The Executive Engineer,
Tirunelveli Housing Unit,
Tamil Nadu Housing Board,
Tirunelveli – 627 011.

3. The Sub Registrar,
Joint-I Sub Registrar Office,
Thoothukudi,
Thoothukudi District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to register the document to be submitted by the petitioner in respect of the property in Survey No.124/1A5 in Sankaraperi Village, Thoothukudi Taluk, Thoothukudi District measuring 2.243 cents within a time stipulated by this Court without insisting No Objection Certificate from the 1st and 2nd respondent in the light of the common order dated



31.08.2023 passed by this Court in WP Nos.10716 of 1988 etc. batch dated 31.08.2023.

For Petitioner : Mr.R.J.Karthick

For R-1 & R-2 : Mr.S.Velmurugan,
Standing Counsel for TNHB.

For R-3 : Mr.M.Prakash,
Additional Government Pleader.

* * *

ORDER

Heard both sides.

2. The issue on hand is identical to what was raised in W.P.(MD)No.26619 of 2023. The said writ petition was allowed by me on 17.11.2023 in the following terms:-

“ Heard both sides.

2. The writ petitioner wanted to sell the petition mentioned land. It was the subject matter of acquisition proceedings. The acquisition proceedings have since been quashed. The issue between the landowners and the Housing Board was the subject matter of



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writ proceedings and writ appeals before the Hon'ble Division Bench of Madurai Bench of Madras High Court. On 31.08.2023 in W.P(MD)Nos.10716 of 1988 etc batch (Gunavathi & Others Vs The Government of Tamil Nadu & Others), the Hon'ble Division Bench of this Court disposed of the matter in the following terms:

“13. The petitioners in W.P.(MD) Nos. 10716 to 10718 of 1988, 1003 and 4343 of 2023 have stated that the lands for which they seek “No Objection Certificate” are covered by the orders of this Court, wherein acquisition proceedings were quashed. It is also the case of the petitioners that they are in possession of the properties acquired by constructing dwelling houses and residing there. In view of the fact that the acquisition proceedings are quashed, it is no more open to the official respondents to refuse to give No Objection Certificate to the land owners including the petitioners in W.P.



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(MD) Nos.27499 and 27500 of 2022 and 1003 and 4343 of 2023.

14. Writ Appeals in W.A.(MD) Nos.1633 to 1645 are filed against the orders of the learned Single Judge in the Writ Petitions filed by the land owners to direct the Housing Board to issue “No Objection Certificate” with respect to the land, which is also included in the notifications issued under Section 4(1) of the Act. In view of the fact that the whole acquisition proceedings are liable to be quashed for non-observance of mandatory procedures contemplated under the Act as held by this Court in several Writ Petitions, particularly W.P.Nos. 10939 to 10941 of 1987, 11756, 11757 and 12138 of 1988, all the Writ Appeals in W.A. (MD) Nos.1633 to 1645 of 2016 are liable to be dismissed.

15. In tune with the facts recorded and the decision of this Court earlier in connected Writ Petitions and for the reasons stated above



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W.P. No. 10716 to 10718 of 1998 are allowed and the acquisition proceedings vide the notification issued under Section 4(1) and the declaration under Section 6 of the Land Acquisition Act including the awards passed thereunder vide Award Nos.1 to 3 of 1998 are quashed. Consequently, W.P.(MD) Nos.27499, 27500 of 2022 & 1003 and 4343 of 2023 are also allowed with a direction to the Tamil Nadu Housing Board to give “No Objection Certificate” to the petitioners with respect to their lands. The respondents shall issue “No Objection Certificate” in the prescribed format clearly indicating that the subject matter of the land is not under acquisition and the Housing Board has no further objections either for registering the documents of land or for land owners, namely, the Writ Petitioners for the lands being developed or in enjoyment of the petitioner's as absolute owner of the property within a period of two weeks from the date of



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receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed. ”

However, when the petitioner presented the sale deed before the first respondent, the registering authority declined to entertain the same. The impugned refusal check slip was issued on the ground that “No Objection Certificate” must be obtained from the Housing Board. The Housing Board declined to issue the “No Objection Certificate”. In view of the decision rendered by the Hon'ble Division Bench, the refusal check slip is quashed. The petitioner is permitted to re-present the document before the registering authority. The registering authority shall receive it, register it and release it subject to the fulfilment of the other usual formalities.

3. I must of course place all record the submission of the learned Standing Counsel that questioning the order passed by the Hon'ble Division Bench, the Housing Board has filed SLP



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before the Hon'ble Apex Court. The rights of the parties will abide by the outcome of the said SLP.

4. With this observation, this writ petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.”

3. Adopting the very same approach, I permit the petitioner to re-present the document before the registering authority. The registering authority shall receive the document, register it and release the same subject to fulfilment of the other usual formalities. This writ petition stands allowed. No costs.

14.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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W.P.(MD)NO.29731 OF 2023

G.R.SWAMINATHAN,J.

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To:

The Sub Registrar,
Joint-I Sub Registrar Office,
Thoothukudi,
Thoothukudi District.

W.P.(MD)No.29731 of 2023

14.12.2023