



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.12.2023

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.29951 of 2023

S.A.Thomas

... Petitioner

v.

- 1.The Principal Secretary to Government,
Tamil Nadu Housing Board and
Urban Development,
Secretariat, Chennai – 9.
- 2.The District Collector,
District Collector Office,
Korampalam, Thoothukudi,
Thoothukudi District.
- 3.The Sub Collector,
Thoothukudi Revenue Division,
Beach Road, Thoothukudi,
Thoothukudi District.
- 4.The Tahsidar, Thoothukudi Taluk,
Thoothukudi District.
- 5.The Zonal Deputy Tahsildar,
Thoothukudi Taluk, Thoothukudi District.
- 6.The District Registrar, District Registrar Office,
Polpettai, Thoothukudi, Thoothukudi District.



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

8.The Managing Director,
Tamil Nadu Housing Board, Chennai.

9.The Executive Engineer,
Tamil Nadu Housing Board,
Kamarajar Road, Anbu Nagar,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the seventh respondent herein in his refusal check slip in refusal No.RFL/1 Thoothukudi Joint Sub Registrar/118/2023 dated 23.11.2023 and quash the same as illegal and consequently to direct the seventh respondent to register the documents presented by the petitioner for registration without insisting No Objection Certificate from the respondents 1, 8 and 9 in the light of the common order made by this Court in WA(MD)Nos.1633 to 1645 of 2016 etc. batch dated 31.08.2023 and direct fourth respondent to issue a separate patta for the petitioner's property in Survey No.132/3C1 situated at Sankaraperi Village, Thoothukudi, Thoothukudi District.

For Petitioner : Mr.M/s.Kwin Law Associates

For Respondents: Mr.M.Sidharthan
Additional Government Pleader
for R1 to R7
Mr.S.Velmurugan for R8 and R9



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ORDER

Heard both sides.

2.The petitioner wants to sell the petition mentioned property. When the document was presented for registration, the registration authority declined to register the same. Refusal check slip was issued. Challenging the same, this writ petition has been filed.

3.The reason for refusal is that the petitioner has not obtained NOC from the housing board. The issue is no longer res integra. Vide order dated 17.11.2023 in WP(MD)No.26619 of 2023, I had held as follows :

“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 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 &



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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.(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 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 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



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

Adopting the very same approach, the impugned refusal check slip is quashed. The petitioner is directed to re-present the document. It shall be received, registered and released by the registering authority subject to the fulfilment of the other usual formalities.

15.12.2023

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

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