



WEB COPY



WP.No.3432 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.3432 of 2023

Gopinath

.. Petitioner

Versus

1.The Executive Engineer and Administrative Officer
Tamil Nadu Housing Board
Salem Housing Unit
Salem – 636 008

2.The District Registrar
District Registrar Office
Collector Office Complex, Salem

3.The Joint I Sub-Registrar
Salem (West)
District Registrar Office
Collector Office Complex, Salem

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 2 and 3 not to insist No objection Certificate from the 1st respondent as a condition precedent for entertaining the mortgage deed or any other instrument that may be presented by the petitioner in respect of the land bearing Plot No.1, comprised in Old Survey No. 94/4, New Survey No.13/65, Ward No. F, Block No. 12 bearing Patta No. 447 measuring a total extent of 662 square feet situated in Mitta Ayyamperumampatti Village, Salem Taluk, Salem District.



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For Petitioner : Mr.M.Elumalai
For Respondent : Mr.C.Kalaiselvan for R1
Mr.Stalin Abhimanyu for R2 & R3
Additional Government Pleader

ORDER

By consent of both parties, this writ petition is taken up for final disposal

2. This writ petition is filed for a direction, directing the respondents 2 and 3 not to insist No objection Certificate from the 1st respondent as a condition precedent for entertaining the mortgage deed or any other instrument that may be presented by the petitioner in respect of the land bearing Plot No.1, comprised in Old Survey No. 94/4, New Survey No.13/65, Ward No. F, Block No. 12 bearing Patta No. 447 measuring a total extent of 662 square feet situated in Mitta Ayyamperumampatti Village, Salem Taluk, Salem District.

3. Heard both sides and perused the materials placed on record.

4. It is the case of the writ petitioner that he is the owner of the subject lands and the first respondent proposed to acquire the subject lands for formation of Neighbourhood Scheme and issued Notification under Section 4(1) of the Old Act vide G.O.Ms.No.755, Housing and Urban Development Department, dated 04.09.1991 and issued Declaration under Section 6 of the



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Old Act vide G.O.Ms.No.608, Housing and Urban Development Department,
dated 03.08.1984.

5.The further case of the petitioner is that the predecessors in title challenged the acquisition proceedings by filing W.P.No.9566 of 1986 before this Court and this Court vide order dated 28.02.2018 allowed the said writ petition and quashed the acquisition proceedings. In the meanwhile, the petitioner acquired the subject property by way of relinquishment. Thereafter, the petitioner approached a financier for availing loan and mortgage deed was sought to be registered, the respondents 2 and 3 refused to entertain on the ground that the No objection certificate has to be obtained from the first respondent. Hence, this writ petition.

6.The learned counsel appearing for the petitioner submitted that the first respondent has no jurisdiction or power to direct the second respondent to not to entertain any document and the same is contrary to the Registration Act as well as the Stamp Act. The second respondent is bound to follow the procedures contemplated under the Registration Act as well as the Stamp Act. Further, the acquisition proceedings itself was quashed by this Court. Accordingly, he prayed for allowing the writ petition.



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8. Such view of the matter, since the acquisition proceedings is quashed, there shall be a direction to the third respondent to entertain the documents submitted for registration by the petitioner in respect of the subject property, if it is otherwise in order and register the same subject to payment of the stamp duty and registration fees. The document shall also be returned after duly registering the same.

9. Accordingly, this writ petition is allowed. No costs.

05.07.2024

dhk
Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No



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