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W.P. No.19181 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.19181 of 2024 and
W.M.P. Nos.21041 & 21043 of 2024

Mrs.J.Hemavathi

... Petitioner

Vs

- 1.The Secretary
Housing & Urban Development Department
Fort St. George
Chennai - 600 009
- 2.The Special Thasildar
(Land Acquisition)
Salem Housing Board Division
Aiyyanthiru Maaligai, Opp: Collectors Bungalow
Salem - 636 008
- 3.The Thasildar
(Land Acquisition)
Salem Housing Board Neighbourhood Scheme
Aiyyanthiru Maaligai, Opp: Collectors Bungalow
Salem - 636 008
- 4.The Executive Engineer & Administrative Officer
Tamil Nadu Housing Board
Salem Housing Board Division
Salem - 636 008



W.P. No.19181 of 2024

5. The Joint-I Sub Registrar

Salem (West) District Registered Office

Collector Office Complex, 3rd Floor

Salem - 636 008

... 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 in impugned Letter No.Ne.A.1/4280/03 dated 23.11.2020 on the file of the 4th respondent and to quash the same and consequently direct the 5th respondent to entertain all the documents for registration relating to the property situate at "A.R.Garden" bearing Plot No.61, measuring an extent of 1532³/₄ Sq.ft. comprised in S. No.53/1 present Survey No.53/1A1B, T.S. No.126, Ward 'F', Block No.9, Mitta Ayyamperumampatti Village, Salem District, without insisting on 'No Objection Certificate' from the 4th respondent for processing the same.

For Petitioner : Mr.V.R.Kamalanathan

For Respondent : Mr.P.Sathish
Addl. Govt. Pleader for R1 to R3
Mr.C.Kalaichelvan for R4
Mr.B.Vijay,
Addl. Govt. Pleader for R5

ORDER

This writ petition is filed to quash the impugned Letter No.Ne.A.1/4280/03 dated 23.11.2020 on the file of the 4th respondent and to quash the same and consequently direct the 5th respondent to entertain all the



W.P. No.19181 of 2024

WEB COPY

documents for registration relating to the property situate at "A.R.Garden" bearing Plot No.61, measuring an extent of 1532³/₄ Sq.ft. comprised in S. No.53/1 present Survey No.53/1A1B, T.S. No.126, Ward 'F', Block No.9, Mitta Ayyamperumampatti Village, Salem District, without insisting on 'No Objection Certificate' from the 4th respondent for processing the same.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleaders appearing for the respondents 1 to 3 and 5 and the learned counsel appearing for the fourth respondent and perused the materials available on record.

3. The petitioner states that when she presented a document before the fifth respondent for registration of the same which relates to the property in question, the same was not accepted on the ground that some time in November 2020, the Tamil Nadu Housing Board has sent a communication to the said Sub-Registrar Office not to entertain any document pertaining to the land in question i.e., S.No.53/1 in the writ petition at Mitta Ayyanperumal Patti Village, Salem Taluk and District. Challenging the same, the present Writ Petition has been filed.



W.P. No.19181 of 2024

WEB COPY

4. The learned counsel for the petitioner has pointed out that though the lands in question were acquired for the purpose of the Tamil Nadu Housing Board, at the stage of 5-A enquiry, the same was challenged before this Court and after succeeding before the Writ Court, the Tamil Nadu Housing Board or State of Tamil Nadu preferred writ appeal in W.A.No.158 of 1999, which came to be decided by a Division Bench of this Court by order dated 26.09.2008, whereby the 5-A enquiry was set aside, however, a liberty was given to the respondents therein to proceed with the fresh 5-A enquiry within a period of six months.

5. Thereafter, according to the learned counsel for petitioner, no such proceedings were initiated and no 5-A enquiry was conducted for long years and no action has been taken by the respondents to conduct 5-A enquiry and six months period given by the Division Bench was also lapsed long back.

6. This position has been confirmed by the Special Tahsildar, Land Acquisition, Additional Charge, Salem, who has also acted as a Public Information Officer under RTI Act. The Special Tahsildar, through his communication dated 14.03.2023 stating that from a perusal of records it is



W.P. No.19181 of 2024

WEB COPY

seen that 5-A enquiry has been conducted. Relying upon this communication, learned counsel appearing for the petitioner would contend that, the respondents have not proceeded to take a fresh 5-A enquiry as directed by the Division Bench of this Court within the six months period. Therefore, on their part, they have not acted upon, hence, the land acquisition proceedings, in view of the quashment of the 5-A enquiry has become a standstill. By thus, the land in question can very well be meddled with or encumbered with by the title holders of the property and in this regard, when similar situation arose, some of the affected parties filed writ petitions before this Court in W.P.No.15154 of 2020 as well as W.P.No.26809 of 2021, those writ petitions were also ordered by the respective learned Judges of this Court and since the petitioner is similarly placed, he is entitled to get his documents presented before the Sub-Registrar to be registered, if they are otherwise in order.

7. The learned Special Government Pleader appearing on behalf of the respondents 1 to 3 and 5 as well as the learned counsel for the fourth respondent have made some attempts by making submissions stating that it was not the quashment of the land acquisition proceedings and only the 5-A enquiry was quashed or set aside. Therefore, liberty was given to the parties concerned



W.P. No.19181 of 2024

to proceed with the fresh 5-A enquiry. Whether the 5-A enquiry was conducted or not could not be ascertained, merely because the documents are not available to establish that the 5-A enquiry subsequently has been proceeded, the land acquisition proceedings *ipso facto* cannot be treated as a lapsed one or quashed one and therefore, on that ground, the petitioner is not entitled to seek for the relief as such sought for in the writ petition.

8. As rightly pointed out by the learned counsel appearing for the petitioner that though the 5-A enquiry was set aside by the Division Bench of this Court and liberty was given to the respondents to proceed with the 5-A enquiry afresh and a time limit also has been prescribed i.e., six months period, admittedly no 5-A notices have been given and this is evident from the latest communication given by the Special Tahsildar dated 28.01.2020 under the RTI Act to the effect that no notice has been given and no 5-A enquiry has been initiated.

9. That being so, at this length of time, the Tamil Nadu Housing Board cannot seek any claim over the property in question. Therefore, the letter sent on 23.11.2020 to the Sub-Registrar could no way impact the Sub-Registrar



W.P. No.19181 of 2024

from entertaining the document presented by the petitioner for registering the same.

10. Accordingly, this Writ Petition is allowed and the impugned letter dated 23.11.2020 of the fourth respondent is quashed and the fifth respondent is directed to entertain registration of the transactions without insisting any NOC from the Tamil Nadu Housing Board and without citing that reason as one of the reasons for refusing the registration, within a period of fifteen days from the date of receipt of a copy of this Order. No costs. Consequently, connected MPs are closed.

25.07.2024

Index : Yes / No
Neutral Citation : Yes / No
Asr

To

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High Court, Madras



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