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W.P.No.17757 of 2020

In the High Court of Judicature at Madras

Reserved on: 26.02.2024

Delivered on : 03.06.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.17757 of 2020

K.S.Poonusamy

S/o.K.S.Sengottayia

... Petitioner

-Vs-

1.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai 600 035.

2.The Executive Engineer-cum-
Administrative Officer,
Tamil Nadu Housing Board,
Erode Housing Unit,
Surampatti Naal Road, Erode 638 009.

... Respondents

PRAYER : Writ Petition filed under Article 227 of Constitution of India, to issue a writ of Mandamus directing the respondents in particular the 2nd respondent to grant allotment of plot vide No.R-56, Sampath Nagar Scheme, and at the rate of Rs.1478/- per square feet on the basis of petitioner representation dated 14.10.2020.



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For Petitioner : Mr.M.Elumalai for Mr.M.Kumaravel

For Respondents : Mr.D.Veerasekaran,

Standing Counsel for R1 and R2

Mrs.P.Vijayadevi, Government Advocate for R1

ORDER

This Writ Petition is filed by Mr.K.S.Ponnusamy aged 70 years praying for issue of a Writ of Mandamus directing the 2nd respondent to allot plot No R-56 of Sampath Nagar Scheme, Erode at the Rate of Rs 1478/- per Sq ft, on the basis of petitioner representation dated 14.10.2020.

2. It is the case of the petitioner that his father Mr.Sengottaya was notified as an interested person against R.S.No 405/3 in Surampatti Village in Award No. 5/80, dated 02.04.1880, granted by the Sub Collector, Erode. It was contended by the petitioner that the amount of compensation awarded was meagre and therefore, no compensation was received by his father. It was submitted that after his demise, her mother was fighting the case with the 2nd respondent. It was averred that the land belonging to the petitioner's father was acquired for the purpose of developing HIG/MIG/LIG houses to the homeless public by the Tamil Nadu Housing Board.



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3. It was submitted by the petitioner that the land owners were promised priority in allotment of developed plots and one another land owner Mr. Manoharan was allotted plot no R-46 in the said Sampath Nagar Scheme Erode at a specific price during 2013. On the basis of the allotment to the said Mr.Manoharan, the petitioner had filed a representation dated 14.10.2020 with the 2nd respondent requesting him to allot plot no R-56 to him against the acquisition and expressed his willingness to pay the price as fixed by him. After ascertaining the availability of unencumbered plot no R-55 in the possession of Tamil Nadu Housing Board through an RTI application dated 11.09.2020 filed by him, the petitioner urged this Court to direct the 2nd respondent to allot the same.

4. The 2nd respondent has filed a detailed counter explaining the acquisition proceedings starting from the original proposal initiated during 1971 to the culmination of the compensation award no. 5/80 passed by the Sub Collector, Erode, during February, 1980. The respondent admits that in the aid acquisition proceedings, the petitioner's father was arraigned as an interested person against the land comprised in R.S.No 405/3 of Surampatti Village. However, it was later found during the proceedings that he is not the owner of



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the said land and one Mr. Appichi Gounder is the owner of the land. It was submitted that the compensation amount awarded against the acquisition of R.S.No 405/3 under the land acquisition Act, was deposited with the Sub Court, as the extent of the share of each of the 5 legal heirs of Mr.Apicihi Gounder, could not be ascertained even with the support of the Village Administrative Officer.

5. It is submitted by the 2nd respondent that the example of one Mr. Manoharan pointed out by the petitioner, to claim parity, is allotted the developed plot on the directions in Order dated 12.06.2007 of the High Court of Madras in W.A No. 1317 to 1320 of 2000, filed by him. The Writ Appeal Order was later confirmed by the Hon'ble Supreme Court in its order dated 21.02.2012 in SLP Civil No 23922/2017. It was further submitted that the award happened in 1980 and a representation is filed at a distant time in 2020. Therefore, it was prayed by the 2nd respondent that the Writ petition is liable to be dismissed.

6. Upon hearing both sides it is observed that the compensation award for R.S. No 404/3, in Surampatti Village, was passed by the Sub



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Collector, Erode during 1980 vide Award No 5/80. It is recorded in the said award that the Petitioner's father who is arraigned as an interested person has not appeared for the enquiry. It is further recorded that it was ascertained with the support of the Village Administrative Officer that the land belonged to one of the interested persons viz Mr. Appichi Gounder. It was found that the land was in the joint possession of 5 of his legal heirs and as the extend of land share of each of the legal heirs could not be ascertained, the compensation amount was deposited with the Sub Court in accordance with the provisions of the erstwhile Land Acquisition Act.

7. In the background of the case, it is observed that the petitioner has failed to produce any proof of ownership of the land by his father Mr. Sengottaya, though he was arraigned as an interested person in the Land Acquisition proceedings. The petitioner is not in possession of any proof to show that his father and later his mother is party to any legal proceedings or litigations connected to the compensation Award No 5/80 of the Sub Collector, Erode before the 2nd respondent or any other forum. Therefore, the petitioner's claim for parity with another of the allottee Mr.Manoharan has no basis. The acquisition happened in 1980. The representation is made during 2020 after a



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lapse of 40 years. The ownership of the claimed land itself is in dispute. In such a situation, even when the petitioner is a senior citizen, I am constrained to hold that no remedy is available to the petitioner in Writ Jurisdiction.

8. In view of the above, the Writ Petition is dismissed. No costs.

03.06.2024

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To

1.The Managing Director,
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2.The Executive Engineer-cum-
Administrative Officer,
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J.NISHA BANU, J.

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Pre-delivery Order
in **W.P.No.17757 of 2020**

03.06.2024