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WP.No.33882 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **01.08.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.33882 of 2022

1. R.Baskar
2. R.Umarani

... Petitioners

.. Vs ..

1. The Secretary Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.
2. The Special Tahsildar (Land Acquisition),
Tamil Nadu Housing Board (Salem Housing Board Division)
Aiyyanthiru Maaligai, Opp. Collector Bungalow,
Salem - 636 008
3. The Tahsildar (Land Acquisition),
Salem Housing Board, Neighbourhood Scheme,
Aiyyanthiru Maaligai, Opp. Collector Bungalow,
Salem - 636 008.
4. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board (Salem Housing Board Division)
Salem - 636 008.
5. The Joint-I Sub Registrar Salem (West),
District Registrar Office Collector Office Complex,
3rd Floor, Salem - 636 008.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to
issue a writ of Certiorarified Mandamus to call for the records in impugned



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Letter No. Ne.A.1/4280/03 dated 23.11.2020 on the file of the fourth respondent and to quash the same and consequentially direct the 5th respondent to entertain registration of transactions relating to the property D.Nos.118-1 & 118/2 measuring an extent of 3898.3/4 sq.ft. comprised in S.Nos.118/4A2 & S.No.118/5A present T.S.No.34/2, Ward-F, Block No.28, Ayyanperumal Patti Village, Salem District.

For Petitioners : Mr.M.Elayarajkumar
for M/s.Ramalingam Associates

For Respondents : Mr.U.Baranidaran,
Additional Government Pleader – R1 to 3 & 5

Mr.C.Kalaichelvan – R4

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 fourth respondent and to quash the same and consequentially direct the 5th respondent to entertain registration of transactions relating to the property D.Nos.118-1 & 118/2 measuring an extent of 3898.3/4 sq.ft. comprised in S.Nos.118/4A2 & S.No.118/5A present T.S.No.34/2, Ward-F, Block No.28, Ayyanperumal Patti Village, Salem District.



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2. Heard learned counsel for the petitioners and the learned Additional Government Pleader 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 petitioners state that when they presented a document before the fifth respondent for registration of documents, 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., 118/4A2 & S.No.118/5A in the writ petition at Ayyanperumal Patti Village, Salem Taluk and District. Challenging the same, the present Writ Petition has been filed.

4. The learned counsel for the petitioners 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



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respondents therein to proceed with the fresh 5-A enquiry within a period of six months.

5. Thereafter, according to the learned counsel for petitioners, 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 28.01.2020 stating that a perusal of records it seen that no 5A 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



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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 Additional 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 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.



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8. As rightly pointed out by the learned counsel appearing for the petitioners 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 30.04.2012 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 from entertaining the document presented by the petitioner for registering the same.

10. Accordingly, this Writ Petition is allowed and the impugned letter of 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 a one of the reason for refusing the registration, within a period of



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fifteen days from the date of receipt of a copy of this Order. No costs.

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

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N. SATHISH KUMAR, J.

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