



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4380 of 2024

M.Santhana Mala

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Housing Board,
CMDA Complex, E&C Market Road,
Koyambedu, Chennai – 600 107.
2. The Executive Engineer,
Tirunelveli Housing Unit,
Tamil Nadu Housing Board,
Tirunelveli – 627 011.
3. The Tahsildar,
Thoothukudi Taluk,
Thoothukudi District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to issue patta in the name of the petitioner in respect of the property in Old Survey No. 124/1B1A, Present Survey No. 124/1B1A1 in Sankaraperi Village, Thoothukudi Taluk, Thoothukudi District measuring 6.41 cents within a time stipulated by this Court without insisting No Objection Certificate from the 1st and 2nd respondent in the light of the common order dated 31.08.2023 passed by this Court in WP.Nos. 10716 of 1988 etc batch.



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For Petitioner : Mr.R.J.Karthick
For R-1 & R-2 : Mr.Velmurugan,
Standing counsel.
For R-3 : Mr.V.Nirmal Kumar,
Government Advocate.

* * *

ORDER

Heard both sides.

2. The petitioner seeks issuance of separate patta in respect of the petition mentioned land. It is beyond dispute that the lands were originally subject matter of acquisition proceedings and that the acquisition proceedings subsequently were quashed. When application was submitted for mutation of patta, the revenue authorities insisted that “No Objection Certificate” must be obtained from the housing board. That led to filing of a batch of writ petitions. The Hon'ble Division Bench of Madurai Bench of Madras High Court disposed of the writ petitions as well as the writ appeals on 31.08.2023 in W.P(MD)Nos. 10716 of 1988 etc batch (Gunavathi & Others Vs The Government of Tamil Nadu & Others) 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



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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. ”

The learned Standing Counsel appearing for the Housing Board would claim that SLP has been filed questioning the order passed by the Hon'ble Division Bench.

3. I direct the jurisdictional Tahsildar / the third respondent herein to issue patta as sought for. Of course, the issuance of patta will abide by the outcome of the SLP said to have been filed by the Board.



4. With this observation, this writ petition is allowed. There

shall be no order as to costs.

04.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU

To:

The Tahsildar,
Thoothukudi Taluk,
Thoothukudi District.



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G.R.SWAMINATHAN,J.

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