



Writ Petition No.8459 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED 17.03.2025

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Writ Petition No.8459 of 2025

Kannan Bala

..Petitioner

Vs.

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



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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 for issuance of a Writ of Certiorarified Mandamus to call for the records in impugned order made in Na.Ka.No.707/APaPe/2025 dated 27.01.2025 on the file of the 5th respondent and to quash the same and consequentially direct the 5th respondent to entertain all the documents for registration relating to the property situate at Gori Nagar, “A.R.Garden” bearing Plot No.28, measuring an extent of 2400 Sq.ft. Comprised in Survey No.53/1, present survey No.53/1A1B, TS No.31 Ward 'F', Block No.9, Mitta Ayyamperuman Patti Village, Salem District, without insisting on 'No objection certificate' from the 4th respondent for processing the same.

For Petitioner : Mr.R.Mani Bharathi

For Respondents : Mr.Karthik Jagannath

Government Advocate for R1 to R3

ORDER

This writ petition has been filed to quash the impugned order issued by the 5th respondent in Na.Ka.No.707/APaPe/2025 dated 27.01.2025 and for a consequential direction to the 5th respondent to entertain all the documents for registration relating to the property situate at Gori Nagar,



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“A.R.Garden” bearing Plot No.28, measuring an extent of 2400 Sq.ft. Comprised in Survey No.53/1, present survey No.53/1A1B, TS No.31 Ward 'F', Block No.9, Mitta Ayyamperuman Patti Village, Salem District, without insisting on 'No objection certificate' from the 4th respondent for processing the same.

2. Heard Mr.R.Mani Bharathi, learned counsel for the petitioner and Mr.Karthik Jagannath, learned Government Advocate for Respondents 1 to 3 and 5.

3. The case of the petitioner is that when he presented a document before the fifth respondent for registration, 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.



4. The issue involved in this writ petition is squarely covered by the order passed by this Court in WP No.19152 of 2024. For better understanding, the relevant portions are extracted hereunder :-

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 5A 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 5A enquiry was set aside, however, a liberty was given to the respondents therein to proceed with the fresh 5A enquiry within a period of six months.*

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

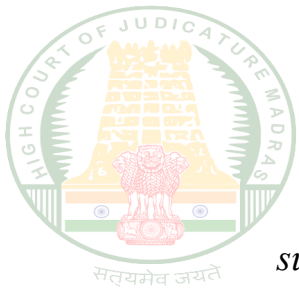
6. *This position has been confirmed by the Special Tahsildar, Land Acquisition, Additional Charge, Salem, who has also acted as a Public Information Officer under RTI Act. The Special Tahsildar, through his communication dated 14.03.2023 stating that from a perusal of records it is seen that 5A enquiry has been conducted.*



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Relying upon this communication, learned counsel appearing for the petitioner would contend that, the respondents have not proceeded to take a fresh 5A 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 5A 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 Government Advocate appearing on behalf of the respondents 1 to 3 and 5 have made some attempts by making submissions stating that it was not the quashment of the land acquisition proceedings and only the 5A enquiry was quashed or set aside. Therefore, liberty was given to the parties concerned to proceed with the fresh 5A enquiry. Whether the 5A enquiry was conducted or not could not be ascertained, merely because the documents are not available to establish that the 5A enquiry



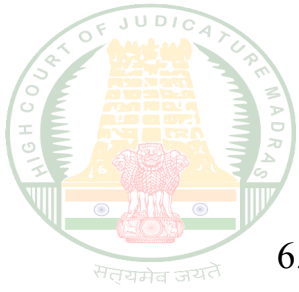
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subsequently has been proceeded, the land acquisition proceedings ipso facto cannot be treated as a lapsed one or quashed one and therefore, on that ground, the petitioner is not entitled to seek for the relief as such sought for in the writ petition.

8. As rightly pointed out by the learned counsel appearing for the petitioner that though the 5A enquiry was set aside by the Division Bench of this Court and liberty was given to the respondents to proceed with the 5A enquiry afresh and a time limit also has been prescribed i.e., six months period, admittedly no 5A 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 5A 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.

5. Following the aforesaid order, this Court, passed an order in W.P.No.28786 of 2024 dated 31.07.2020.



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6. The above orders passed by this Court, which has been stated supra, clearly establishes the fact that this Court on more than one occasion had held that the Housing Board has no right over the lands and that the Sub-Registrar should not insist for getting -No Objection Certificate- from the Housing Board. This Court also proceeded to issue directions to the Sub-Registrar to register the documents without insisting for No Objection Certificate from the Housing Board. The above orders squarely cover the facts of the present case also.

7. In view of the above, the impugned letter Na.Ka.No.707/APaPe/2025 dated 27.01.2025 issued by the fifth respondent is hereby quashed and the fifth respondent is directed to entertain the document for registration, if it is otherwise in order, 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.

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Neutral citation: Yes/No

Index : Yes/No

Speaking Order / Non Speaking Order

To

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N. ANAND VENKATESH, J
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