

(2011) 04 MAD CK 0125

In the Madras High Court

Case No : Writ Petition No. 9724 of 2011

Sabanayagam and Others

APPELLANT

Vs

Chennai Metropolitan Development Authority and The Tamil
Nadu Housing Board

RESPONDENT

Date of Decision : 18-04-2011

Acts Referred:

Citation : (2011) 04 MAD CK 0125

Hon'ble Judges : R. Sudhakar, J

Bench : Single Bench

Advocate : D.S. Rajasekaran, for the Appellant; C. Kathiravan, for R1, I. Paranthaman, for R2 and A. Vijay Kumar, for R3, for the Respondent

Judgement

R. Sudhakar, J.—Writ Petition is filed praying to issue a Writ of Mandamus, directing the first Respondent to receive, consider, process and

approve the Petitioners' application for demolition and reconstruction by issuing planning permission to construct residential flats in the property

situated at Block Nos. H24, East Avenue, Korattur, Chennai-600 080 comprised in S. No. 1189 (part), 3B(part) and 6(part) of Korattur Village,

Ambattur Taluk, Thiruvallur District without insisting on production of No Objection Certificate from the third Respondent or any other Authorities

concerned and to accord sanction for the same in accordance with law expeditiously.

2. Mr. C. Kathiravan, learned Counsel takes notice on behalf of the first Respondent. Mr. I. Paranthaman, learned Counsel takes notice on behalf

of the second Respondent. Mr. A. Vijay Kumar, learned Counsel takes notice on behalf of the third Respondent. By consent of all parties, the writ

petition is taken up for final disposal.

3. Petitioners are owners of the property which was originally developed by Tamil Nadu Housing Board and sold to the individuals. The present

owners are either original allottees or subsequent purchasers. The undisputed fact is that the Tamil Nadu Housing Board has no lien over the

property. For the purpose of developing the property, the first Respondent orally insisted the Petitioners that no objection certificate issued by the

Tamil Nadu Housing Board should be submitted along with the application for the purpose of demolition, planning permission and for issuance of

planning and building permit to put up new construction.

4. Similar issue with regard to the insistence of no objection certificate from Tamil Nadu Housing Board was considered by a Division Bench of

this Court in W.A. No. 1052 of 2007 (The Managing Director v. Lancor G: Crop Properties Limited and Anr.) where it has been clearly held that

the Housing Board has no right over property developed and sold to the individual allottees. The Petitioners have enclosed sale deeds to show

absolute ownership. The only restriction appears to be that the property developed for residential purpose should not be commercialese. The

Petitioners' plea is only for demolition and reconstruction as residential property.

5. Petitioners' counsel states that the development of the property is for residential use only and Petitioners are willing to file an affidavit to that

effect. Following the Division Bench judgment as above, several orders have been passed by this Court, viz., W.P. No. 15170 of 2010 dated

20.7.2010, W.P. No. 14784 of 2008 dated 6.8.2008 where the Chennai Metropolitan Development Authorities were redirected to accept the

application without insisting on no objection certificate.

6. Since the property in question undisputedly has been sold to the individual allottees by way of proper sale deeds, the Tamil Nadu Housing

Board can have no right over the property and therefore, the question of issuing no objection certificate does not arise.

7. In view of the above, the first Respondent is directed to proceed with the application submitted by the Petitioners without insisting on objecting

certificate from the third Respondent Tamil Nadu Housing Board subject to condition that the property will be developed only for residential

purpose. The Petitioners, however, are directed to submit the individual sale deeds of all the land owners to the competent authority to get planning

permission. The Writ Petition is ordered as above. No costs.