

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.Nos.21316 to 21318 of 2014 &
M.P.Nos.1 to 1 of 2014

S.Krishnamoorthy ..Petition in W.P.No.21316 of 2014
V.Umayal ..Petition in W.P.No.21317 of 2014
N.Kalavathy ..Petition in W.P.No.21318 of 2014

Vs

1 The Registrar of Coop.
Societies (Housing)
Tamil Nadu Housing Board
Anna Salai, Nandanam, Chennai-35.

2 The Deputy Registrar of Coop.
Societies (Housing)
No.1288, Trichy Road
New Aryas Upstairs, Rajasree Complex,
Coimbatore-641018

Now at O/o.Dy.Registrar of Coop. Societies (Housing)
Chinthamani Supermarket Building Complex
Ramasamy Salai, Coimbatore (North),
Coimbatore 641 002.

3 The Cooperative Sub Registrar(H)/
Official Liquidator
Sri Venkateswara Coop. Building Society Ltd.
O/o.Dy.Registrar of Coop. Societies (Housing)
Chinthamani Supermarket Building Complex
Ramasamy Salai, Coimbatore (North),
Coimbatore 641 002. .. Respondents in all W.Ps.

Writ petitions filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorarified Mandamus to call for Call for the entire records relating to the impugned orders passed by the 3rd respondent in his proceedings R.C.No.2161/2013/Vi dated 10.03.2014 and quash the same and consequently direct the respondents to execute the Rectified Sale Deeds as per the revised layout plan submitted before Coimbatore Municipal Corporation by the 3rd respondent society on 05.08.2009 in so far relates to S.F.Nos. 327/3 351/1 and 351/2B in Sowripalayam Village, Peelamedu, Coimbatore District with revised boundaries.

For Petitioners: Mr.C.Prakasam
For Respondents: Mr.L.P.Shanmuga Sundaram
Spl.Govt.Pleader

C O M M O N O R D E R

Heard Mr.C.Prakasam, learned counsel for the petitioners, and Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader, appearing for the respondents and with the consent of the learned counsel appearing for the parties, the Writ Petitions are taken up for final disposal.

2.The Writ Petitions have been filed for quashing the orders passed by the third respondent dated 10.03.2014 and to direct the respondents to execute the modified sale deeds as per the lay out submitted before the Coimbatore Corporation by the third respondent Society on 05.08.2004, in so far it relates to S.F.Nos.327/3, 351/1 & 351/2B.

3.The case projects the plight of the innocent purchasers who purchased small housing plots in a lay out developed by the third respondent Society with the fond hope of constructing small houses. Though they have paid the entire amount and sale deeds were executed in favour of the petitioners during 1982, till date the petitioners are unable to get possession of the housing plots nor obtain rectification in the sale deeds giving correct boundaries. This is the second time, the petitioners are before this Court and earlier the petitioners filed a Writ Petition in W.P.No.12691 of 2010. In the said Writ Petition, the petitioners sought for issuance of a writ of mandamus to direct the respondents to re-allot the plots in the same measurement in the same area by making rectification deeds in the Sub Registrar Office and hand over the physical possession of the plots to the petitioners as per the revised plan dated 15.8.2009, which was submitted by the erstwhile Special Officer of the third respondent. The matter was disposed of by a detailed order dated 28.10.2013. The operative portion of the order reads as follows:

"7. From the perusal of the documents, it is seen that the third respondent society purchased land to the extent of 4.23 acres in Sowripalayam village, Coimbatore. When the society attempted to purchase land to the extent of 12.59 acres adjacent to the above said land, proceeding has been initiated by the land ceiling authority to acquire the land under Urban Land Ceiling Act. Questioning the said proceedings, the society filed writ petition and the same has been transferred to the Tamil Nadu Special Land Reforms Appellate Tribunal and the Tribunal ordered to issue patta in favour of the

Society. Thereafter, the Society sent a letter dated 5.8.2009 to the Assistant Commissioner, Coimbatore Municipal Corporation for regularization of unapproved Residential Layout, which has been evidenced from the typed set of papers. As per the said letter, the previous plan has been modified and revised layout plan has been presented for approval to the local authority along with necessary fees. Therefore, it is very clear that the matter is pending before the local authority for consideration from the year 2009. Since the lands in question were allotted to the petitioners, it is for the respondents to execute proper sale deed to the petitioners in accordance with the revised plan.

8. Therefore, the petitioner is directed to approach the third respondent along with necessary application, who, in turn, is directed to pass suitable orders in accordance with law as expeditiously as possible.

The above direction issued by this Court attained finality and the respondents did not file any appeal.

4. In the earlier Writ Petition, this Court pointed out that as per the letter sent by the Society, the previous plan has been modified and revised layout has been presented for approval to the local authority along with necessary applications and therefore it is clear that the matter is pending before the local authority for consideration from the year 2008 and since the lands were allotted to the petitioners, the respondents have to execute proper sale deeds to the petitioners in accordance with revised plan. Thus, this Court had issued a positive direction to execute proper sale deeds in favour of the petitioners as per the revised plan. The further direction issued to the petitioners to approach the third respondent with necessary applications is to implement the order and issue proper sale deed as per the revised plan. However, the third respondent has thoroughly misconstrued the scope of the direction issued and passed the impugned orders which clearly amount to willful disobedience of the order and direction issued by this Court earlier. Therefore, the third respondent is liable to be proceeded for Contempt of Court. However, this Court does not propose to take such an action at this juncture, since this Court is concerned about the plight of the petitioners who were unable to get possession of the property for no fault committed by them. The other facts which have been stated in the earlier Writ Petitions are not in dispute and therefore the same are not repeated here.

5. The fact that the petitioners have paid the entire sale consideration and sale deeds have been extended in their favour in 1985, are not in dispute. After the proceedings initiated under the

Urban Land Ceiling Act had attained finality in favour of the Society, a revised plan was submitted by the then Special Officer, the lay out plan stood revised and the number of plots increased from 44 to 45. Consequent upon such revised plan having been approved, the four boundaries of the lay outs including the petitioners stood altered. Therefore, the third respondent is bound to execute the revised sale deeds revising the boundaries alone since the boundaries stood revised not on account of any purchase of additional extent, but only on account of the revised plan being submitted at the instance of the Society. Therefore, the petitioners are entitled to the relief sought for.

6. Though the matter has been taken up by this Court on several occasions for filing counter affidavit and a peremptory order was also passed on 16.4.2014, issuing certain directions to the second respondent, failing which he has to be present in Court, the second respondent has disobeyed the directions issued by the Court on 16.04.2014. In fact, the learned Special Government Pleader has addressed to all the three respondents on 17.4.2015 and in the letter dated 17.4.2015, it is reiterated that 11 letters have been sent and the respondents have not responded. Copies of the letters have been produced before this Court and the latest letter to the Secretary to Government dated 11.6.2015 has also been produced.

7. From the above facts, it is seen that the respondents more particularly the respondents 2 & 3 have failed to respond to the communications sent by the Special Government Pleader, which itself is pursuant to the direction issued by this Court. Therefore, it is clear that the respondents more particularly the second and third respondents have shown indifferent attitude to the communications sent by the learned Special Government Pleader, who is defending their case. In fact the communications sent to the Registrar of Co-operative Societies (Housing) by the Special Government Pleader has also not evoked any response. Therefore, it is a fit case where a disciplinary action has to be initiated against the respondents 2 & 3. The Secretary to Government, Housing and Urban Development Department, should also take note of the fact as to why the Registrar Co-operative Societies (Housing) did not issue any direction inspite of the repeated communications sent by the learned Special Government Pleader on 12.09.2014, 30.10.2014, 06.11.2014, 13.11.2014, 27.11.2014, 11.12.2014, 22.12.2014, 04.02.2015, 10.03.2015, 17.03.2015 and finally on 17.04.2015. Therefore, Registry to forward a copy of this order to the Secretary to Government, Housing and Urban Development Department, Chennai 9, for appropriate action against the officials as directed.

8. In spite of the non co-operative attitude of the respondents 2 & 3 before this Court, this Court on a perusal of the entire materials finds that the impugned orders are absolutely perverse and a clear violation of the order and direction issued by this Court in

the earlier Writ Petition, referred supra. Therefore, the impugned orders deserve to be set aside.

9. Accordingly, the Writ Petitions are allowed and the impugned orders are quashed. The respondents 2 & 3 are directed to execute the rectified sale deeds as per the revised layout plan submitted before the Commissioner of Municipal Corporation, by the third respondent Society on 5.8.2009 in so far it relates to S.F.Nos.327/3, 351/1 & 351/2B, in Sowripalayam Village Peelamedu Coimbatore District, within a period four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1 The Registrar of Coop. Societies (Housing)
Tamil Nadu Housing Board
Anna Salai, Nandanam, Chennai-35.
- 2 The Deputy Registrar of Coop. Societies (Housing)
O/o.Dy.Registrar of Coop. Societies (Housing)
Chinthamani Supermarket Building Complex
Ramasamy Salai, Coimbatore.
- 3 The Cooperative Sub Registrar (H)/Official Liquidator
Sri Venkateswara Coop. Building Society Ltd.
O/o.Dy.Registrar of Coop. Societies (Housing)
Ramasamy Salai, Coimbatore.

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Note to Registry:

Copy of this order be communicated to:

4.The Secretary to Government of Tamil Nadu
Housing and Urban Development Department
Chennai 600 009.

To take action as per observation made in
paragraph 7 of the order.

+1 cc to Mr.C.Prakasam, Advocate,SR.28775

+1 cc to Government Pleader,SR.28614

+1 cc to Mr.L.P.Shanmuga Sundaram, Advocate,SR.28358.

Msm(co)
krd 23/6

WP.Nos.21316 to
21318 of 2014



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