

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S. SIVAGNANAM

W.P.No.1233 of 2015

S.Vijayalakshmi

.. Petitioner

Vs

1. State of Tamil Nadu
Rep. by Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 118.
3. The Secretary,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 118.
4. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Vellore Housing Unit, Sathuvachari,
Vellore-9.
5. H.Anbalagan
(5th respondent is impleaded as per the
order passed by this Court dated 27.02.2015 in
M.P.No.1 of 2015 in WP.No.1233/2015

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for a writ of Mandamus directing the fourth respondent herein to execute the sale deed to the petitioner for the house bearing No.2, HIG, TNHB, Phase-I, Thirupathur, Vellore District forthwith.

For Petitioner

: Mr.K.V.Sanjeev Kumar for
M/s.Royan Law Associates

For Respondents

: Mr.R.Vijayakumar for
Mr.V.Anadhamurthy for R2 to R4
Mr.R.Subramanian for R5

ORDER

<https://hcservices.ecourts.gov.in/hcservices/> The writ petition is filed for issuance of writ of Mandamus to direct the fourth respondent/Tamil Nadu Housing Board, to execute the sale deed to the petitioner in respect of the house bearing

No.2, HIG, TNHB, Phase-I, Thirupathur, Vellore District.

2. It is not in dispute that the writ petitioner was the allottee of the Housing plot having been allotted under the Government discretionary quota under G.O.2D No.435, dated 26.01.1993. Pursuant to the said Government Order, an allotment order was issued to the petitioner by the fourth respondent on 25.01.1994. The writ petitioner claimed that the entire payment towards the cost of the plot was made by her. This is seriously disputed by the fifth respondent stating that pursuant to the agreement entered into between the petitioner and the fifth respondent, he has paid all the monies and the fifth respondent is entitled to get the sale deed executed in his favour by the petitioner.

3. Admittedly, the fifth respondent is not the allottee of the plot, but it is the writ petitioner. Therefore, whatever the payments have been effected in respect of the said plot in question and acknowledged by the respondent/Board, in such situation, the Board has to execute the deed in favour of the allottee and will recognise the allottee as a person, who is entitled to receive the sale deed.

4. It is seen that the fifth respondent has filed the suit in O.S.No.12 of 2015 on the file of the sub Court, Thirupathur, wherein the fifth respondent has prayed for decree and judgment to direct the first defendant, namely, the writ petitioner herein, to execute the sale deed in his favour after getting the sale deed from the third defendant, viz., Housing Board, the first defendant, under Specific Performance of contract. The other prayer sought for is for permanent injunction not to disturb the plaintiff's peaceful possession and enjoyment of the suit properties to forbear the writ petitioner/first defendant from alienating the suit properties. Insofar as the Housing Board is concerned, there is no dispute that they have received the entire sale consideration payable towards the plot at this stage, who are in action remitted the money. The petitioner would claim that she has remitted the entire money for the plot whereas the fifth respondent stated that he has paid the money and the money received from him was remitted to the Board. In any event, this is subject matter in O.S.No.12 of 2015 pending before the Civil Court and the same is left open to both the parties to agitate their rights. Hence, it is not in dispute that if the entire sale consideration has been paid to the Board, the same shall be executed in favour of the petitioner within a period of four weeks. However, it is made it clear that the contentions raised by the fifth respondent as well as the writ petitioner, in the pending suit in O.S.No.12 of 2015, as observed above, it is open to both parties to lead oral and documentary evidence in support of the same.

In the result, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. State of Tamil Nadu
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4. The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Vellore Housing Unit, Sathuvachari,
Vellore-9.

1 cc to M/s.Royan Law Associates ,Advocate, SR.No.11071
1 cc to Mr.R.Subramanian ,Advocate, SR.No.11320
1 cc to Mr. V.Anadhamurthy,Advocate, SR.No.11730

W.P.No.1233 of 2015

gj (co)
pmk.23.3.2015