

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.1731 of 2015

R.Kandasamy

.. Petitioner

Vs.

The Managing Director
Tamil Nadu Slum Clearance Board
Kamarajar Salai,
Chennai 600 005.

.. Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Mandamus to direct the respondent viz. The Managing Director, Tamil Nadu Slum Clearance Board, Kamarajar Salai, Chennai 600 005, to issue Sale deed in respect of LIG Flat No.330, Nehur Street II Floor, Kanagam, Taramani, Chennai 600 113 of Tamil Nadu Slum Clearance Board, Housing Scheme of an extent of 210 sq.ft. built up area as per the allotment in Board's proceedings Na.Ka.No.G5/441/1998 dated 21.12.1998 to the petitioner.

For Petitioner : Mr.V.Balakrishnan

For Respondents : Mr.R.V.Babu

O R D E R

By consent of the learned counsel on either side, the writ petitions are taken up for final disposal.

2.Heard Mr.V.Balakrishnan, learned Counsel appearing for the petitioner, Mr.R.V.Babu, learned counsel appearing for the respondent.

3.The petitioner seeks for issuance of a writ of mandamus to direct the respondent to issue Sale deed in respect of LIG Flat no.330, Nehur Street II Floor, Kanagam, Taramani, Chennai 600 113 of Tamil Nadu Slum Clearance Board, Housing Scheme of an extent of 210 sq.ft. built up area as per the allotment in Board's proceedings Na.Ka.No.G5/441/1998 dated 21.12.1998 to him.

4. According to the petitioner, he has been allotted a flat as per the allotment letter dated 21.12.1998, and he paid the entire amount payable to the Slum Clearance Board, after availing loan from the Government and created a mortgage deed. After the payment of the loan amount the mortgage has also been discharged vide document NO.981 of 2011, on the file of the Sub Registrar, Adayar.

5. The learned counsel for the respondent submitted that on an Inspection done on 15.12.2012, it is seen that one Augustin Ramesh was residing in the said property.

6. The learned counsel for the petitioner submitted that no notice of such inspection was given and the petitioner alone is in possession of the property. That apart, the mortgage created in favour the Government has also been discharged only in 2011.

7. On a perusal of the Inspection Report, it is seen that the allottee name is shown as Kandasamy, who is the writ petitioner. Without issuing any notice and without conducting any enquiry in the matter in the presence of the petitioner, the respondent cannot seek to defeat the rights of the petitioner who is the original allottee. Even if the petitioner has violated the conditions of allotment dated 21.12.1998, till date no action has been initiated against the petitioner. Therefore, merely based on the Inspection Report, the petitioner cannot be denied the sale deed more particularly when he has paid the entire cost.

8. Accordingly, the Writ Petition is allowed and the impugned order is set aside and the respondent is directed to execute the sale deed in favour of the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/

Assistant Registrar

/True Copy/ सत्यमेव जयते

Sub Assistant Registrar

rpa

To

The Managing Director
Tamil Nadu Slum Clearance Board
Kamarajar Salai,
Chennai 600 005.

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+ 2 Ccs TO MR.V.Balakrishnan, Advocate sr.no.7191

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GJ[CO]
RR 24/02/2015



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