

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 24301 of 2015

Ms.T.Gowri

... Petitioner

Vs.

1. The Chennai Metropolitan Development Authority,
Rep by its Member Secretary,
Off: Thalamuthu-Natarajan Maaligai,
No. 1, Gandhi-Irwin Road, Egmore,
Chennai - 600008.
2. The Chennai Metropolitan Development Authority,
Rep by its Senior Estate Officer,
Off: Thalamuthu-Natarajan Maaligai,
No. 1, Gandhi-Irwin Road,
Egmore, Chennai- 600008.
3. Mr.M.J.Kandasamy,
4. Mr.M.Kamrudeen.

... Respondents

This petition is filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the 1st and 2nd respondents to initiate appropriate action to rectify the error in the schedule of property in the Sale Deed dated 09.08.2010 and registered as Document No. 5787 of 2010 at the SRO at Thiruvottiyur executed by the 2nd respondent in favour of the 3rd respondent and duly register such rectification deeds and to cause appropriate entries in the registers meant for the said purpose.

For Petitioner : Mr.T.N.Sugesh,

For Respondents : Mr.P.Tamilmani for R1 and R2
Mr.G.Ilamurugu for R3

ORDER

Heard Mr.T.N.Sugesh, the learned Counsel for the petitioner, Mr.P.Tamilmani, learned counsel appearing for respondent Nos. 1 and 2 and Mr.G.Ilamurugu learned counsel appearing for respondent No. 3 and with the consent of either side, the writ petition itself is taken up for final disposal at the admission stage.

2. The petitioner seeks for a direction upon respondent Nos. 1 and 2, to initiate appropriate action in rectifying the error in the schedule of property in the sale deed dated 09.08.2010, registered as Document No.5787 of 2010, on the file of the Sub-registrar Officer at Thiruvottiyur, executed by the 2nd respondent.

3. According to the petitioner, he purchased the plot in question earlier in point of time than the private respondent Nos. 3 and 4. However, while executing the sale deed in favour of the private respondents, error has occurred in the schedule of property. When the petitioner pointed out this mistake to the respondent Nos. 1 and 2 through his counsel, the Chief Executive Officer of CMDA by letter dated 17.05.2012, informed the petitioner as follows;

'With reference to your notice cited, I am to inform that on verifying the records, it is found that while executing the Sale deed for EWS plot to Thiru. M.J.Kandasamy the schedule of property has been erroneously mentioned the schedule of property of Tmt.Meenambigai and hence this discrepancy occurred. Necessary action is being taken to set right this issue, and you will be informed of the action taken in this regard.'

4. Thereafter, the petitioner sought for information under the Right to Information Act, by petition, dated 14.02.2014. The Public Information Officer, by reply, dated 06.03.2014, informed the petitioner that the original allottee, namely the 3rd respondent has not turned up for enquiry. Thus, as on date the matter is pending consideration with the 2nd respondent.

5. It appears that the private respondents, namely, the respondents 3 and 4, are not co-operating in the enquiry, though all the three persons namely, the petitioner, the 3rd and 4th respondents have acquired titled over the property from the 2nd

respondent. Therefore, if there is any discrepancy in the description of the property and CMDA issues notice to them, all of them are bound to attend enquiry and they cannot refuse to participate in the enquiry.

6. Accordingly, the writ petition is disposed of with a direction to the 2nd respondent to issue fresh notice to the petitioner and the respondents 3 and 4, calling upon them to appear in person for enquiry and to produce all relevant documents in original. On their appearance, the parties shall be heard at length and the documents shall be perused and the 2nd respondent shall pass a speaking order on merits and in accordance to law. The above direction shall be complied with by the 2nd respondent, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the present writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

rms/kal

To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Off: Thalamuthu-Natarajan Maaligai,
No. 1, Gandhi-Irwin Road, Egmore,
Chennai - 600008.

2. The Senior Estate Officer,
Chennai Metropolitan Development Authority,
Off: Thalamuthu-Natarajan Maaligai,
No. 1, Gandhi-Irwin Road,
Egmore, Chennai- 600008.

+1cc to Mr.T.N.Sugesh, Advocate, S.R.No.64565

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BVR(CO)

CA(11/12/2015)