

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.29739 of 2011

1 PADMAVATHY
2 LALITHA
3 N.SRINIVASAN
4 USHA RANI
5 SHANTHI
6 KALYANI
7 GEETHA

[PETITIONERS]

Vs

1 THE CHAIRMEN
TAMIL NADU SLUM CLEARANCE BOARD
ESTATE OFFICER-II,
ARIGNAR ANNA PLATINUM JUBILEE BUILDING
CHENNAI-600 005.

2 MALLIKA

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus to call for the records relevant to the order in Na. Ka. No.8974/96/E4 dt May 1996 passed by the 1st respondent and quash the same as illegal improper arbitrary and against the rule of law and natural justice and thereby direct the 1st respondent to re-allot the Plot No. 108 Door No.126 Sivalingapuram K.K.Nagar Chennai totally to an extent of 88 sq.m. in the name of the petitioners and issue sale deed in the name of the petitioners immediately.

For Petitioners : Mr.M.V.Muralidaran

For Respondents : Mr.S.P.Prabhakaran -R1
Mr.G.V.Sridharan -R2

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal at the admission stage itself.

2.Heard Mr.M.V.Muralidaran, learned Counsel appearing for the petitioners, Mr.S.P.Prabhakaran, learned Counsel appearing for the first respondent and Mr.G.V.Sridharan, learned counsel for the second respondent.

3.The petitioners have filed this Writ Petition challenging the order of cancellation of the allotment made in favour of the first petitioner's husband Tr.K.Narayanan Rao, who passed away during May 1996.

4.According to the petitioners without any notice to the legal heirs of K.Narayanan Rao, the impugned order has been passed after his demise. Further, the petitioners would state that though during his life time, he paid the entire amount to the Board, the Board, illegally sold the property to the second respondent.

5.It is seen that the petitioners moved the Civil Court by filing O.S.No. 6916 of 2005, praying for a decree of permanent injunction. The trial Court after considering the submissions on either side, including the respondents herein, by Judgment and Decree dated 04.08.2011, dismissed the Suit by holding that the relief of permanent injunction cannot be granted to the petitioners. It appears that the said Judgment has become final and no further appeal has been filed by the petitioners.

6.Counter affidavit has been filed by the respondent Board stating that the second respondent has purchased the property through Narayana Rao, vide unregistered sale deed, after having received the sale consideration of Rs.50,000/- on 20.10.1987 and the said fact according to the Board came to their notice when a field enquiry was conducted by the staff of the Board. Therefore, the respondent Board justified their action in cancelling the allotment in favour of Narayana Rao and the second respondent was directed to pay the necessary fees, which was paid by her on 17.4.1996 and till date no allotment order has been issued in favour of the second respondent since recovery process has been stopped due to certain issues relating to fixation of plot cost. The respondent submits that the second respondent continues to be in possession of Plot No.108.

7.In the light of the above facts, if the petitioners still claim that they are entitled to the property and no sale was effected by Narayana Rao in favour of Mallika, they have to establish the same before appropriate forum and such a dispute cannot be adjudicated in the Writ Court, moreso, when the Suit filed by the petitioners was dismissed by the Civil Court. Hence, on the grounds raised by the petitioners, the Writ Court cannot interfere with the matter since serious disputed questions of facts are involved in the writ petition.

8.Hence, the Writ Petition is dismissed on the ground that it is not maintainable. However, it is open to the petitioners to agitate their grievances, before the appropriate forum in the manner known to law. No costs. Consequently, connected Miscellaneous Petition stands closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpa

To

THE CHAIRMEN
TAMIL NADU SLUM CLEARANCE BOARD
ESTATE OFFICER-II,
ARIGNAR ANNA PLATINUM JUBILEE BUILDING
CHENNAI-600 005.

+ 2 ccs to Mr.M/s. G.V. Sridaran, Advocate SR.17361
+ 1 cc to M/s.P. Prabhakran, Advocate SR.17349
+ 1 cc M/s. MV. Muralidaran, Advocate Sr.17772

CA(CO)
EU 31.03.2015

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