

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.6627/2015 & MP.No.1/2015

Guna

...Petitioner

Versus

1. The Chairman
Tamil Nadu Slum Clearance Board
Old No.5, Kamrajar Salai,
Chennai 600 005.

2. The Estate Officer
Tamil Nadu Slum Clearance Board
Sivalingapuram K.K.Nagar,
Chennai 600 078.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents 1 and 2 to register/issue sale deed in favour of the petitioner [Mrs Guna] in respect of Plot No.3083, measuring to an extent of 0-01-47-0 Hectare in survey No.394, situated at MGR Nagar Scheme, Chennai-78 considering the petitioner's representation dated 25.02.2014 based on the Will and Probate Order dated 25.07.2012 and dispose the same.

For Petitioner : Mr.V.Suryanarayana Reddy

For Respondents : Mr.R.V.Babu

ORDER

Heard Mr.V.Suryanarayana Reddy, learned counsel appearing for the petitioner ; and Mr.R.V.Babu, learned counsel accepting notice for the respondents/Slum Clearance Board and with their consent, the writ petition is disposed of at the admission stage itself.

2.The petitioner, W/o.[Late] Janakiraman, has filed this writ petition to direct the respondents to issue Sale Deed in her favour in respect of Plot No.3083, measuring to an extent of 0-01-47-0 Hectare in survey No.394, situated at MGR Nagar Scheme, Chennai-78, by taking into consideration, the order passed by this Court in OP.No.474/2004 dated 19.08.2011.

3.The facts which are necessary for the disposal of this writ petition are that the petitioner's husband was the allottee of the said plot and he has entered into a lease-cum-sale agreement with the respondent/Board. The petitioner's husband constructed a small house in the said property and was living there along with his father, wife and children. Though the petitioner's husband is said to have paid the entire amount as per the Lease-cum-Sale Agreement, the Sale Deed was not issued in his favour during his lifetime. The petitioner's husband died on 22.07.1998 and he had executed a registered Will in favour of the petitioner vide Document No.66/1998 dated 20.05.1998 on the file of the Sub Registrar, Kodambakkam, bequeathing the property in question in favour of the petitioner. It is submitted that by virtue of the recitals in the Will, bequeathing absolute ownership in favour of the petitioner with full power of alienation, the petitioner applied for Probate/Letters of Administration with Will annexed before this Court in OP.No.474/2004 and in which all the family members were parties and the Court granted an order of Probate on 25.07.2012 in favour of the petitioner.

4.Based on the above facts, the petitioner has approached the respondents for execution of the Sale Deed in her favour. After the receipt of the petitioner's application, the 2nd respondent sent a letter dated 14.05.2014 calling upon the petitioner to produce the Legal Heirship Certificate. The petitioner sent a reply through her counsel stating that she is entitled to get the Sale Deed executed in her favour in the light of the order obtained by her in OP.No.474/2004. Since no action has been taken thereafter, the petitioner has filed this writ petition.

5.It is seen that the children of the deceased first wife of the petitioner's husband had filed a suit for partition in OS.No.4562/1999 on the file of the II Assistant Judge, City Civil court, Chennai, against the petitioner and her family members and the said suit was dismissed for default on 05.03.2003 after a lapse of about 10 years. It appears that the plaintiffs in the suit, viz., J.Kumudha and two others have filed Ia.No.8220/2013 to condone the delay of 3650 days in filing the application to restore the suit, which was dismissed for default on 05.03.2003. The Trial Court by

order dated 21.11.2013, dismissed the said Interim Application in IA.No.8220/2013 in OS.No.4562/1999. It is submitted that the said order dated 21.11.2013 has attained finality. This fact has also been brought to the notice of the respondents in the representation sent by the petitioner through her counsel.

6.In the light of the above, there will be a direction to the respondents to consider the petitioner's representation for execution of the Sale Deed in her favour by taking into consideration the order passed by this Court in OP.No.474/2004 and after issuing notice to the petitioner and hearing her in person and pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

7.The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Chairman
Tamil Nadu Slum Clearance Board
Old No.5, Kamrajar Salai,
Chennai 600 005.

2. The Estate Officer
Tamil Nadu Slum Clearance Board
Sivalingapuram K.K.Nagar,
Chennai 600 078.

1 CC to Mr.V.Suryanarayana Reddy, Advocate SR.No. 13176

WP.No.6627/2015

SV (CO)

PSI (20.03.2015)