

In the High Court of Judicature at Madras

Dated: 22-09-2015

Coram:

The Hon'ble Mr.Justice M.Jaichandren

W.P. No.27921 of 2012 and
M.P.No.1 of 2012

Murugammal

.. Petitioner.

Versus

1. The Chairman,
Tamil Nadu Slum Clearance Board,
Chennai.

2. Balaraman

3. C.Velayutham

.. Respondents.

Prayer: Writ Petition filed to filed under Article 226 of the Constitution of India, seeking to issue a Writ of Mandamus, directing the first respondent to cancel the allotment proceedings dated 27.6.1994 and restore the allotment in the petitioner's favour consequently issuing sale deed in the petitioner's favour on receipt of the sale consideration for plot No.136, Sasthri Nagar, 5th Street behind Nehru Park, Chennai-34.

For petitioner : Mr.G.Appavu

For respondents : Mr.R.V.Babu (R1)
Mr.S.Udayakumar (R2)
No Appearance (R3)

ORDER

Heard the learned counsel appearing for the petitioner, as well as the learned counsels appearing on behalf of the respondents 1 and 2.

2. This Writ Petition has been filed praying that this Court

may be pleased to direct the first respondent to cancel the allotment proceedings, dated 27.6.1994, and to restore the allotment of the plot in question, in favour of the petitioner.

3. The main contention of the learned counsel appearing on behalf of the petitioner is that the plot which had been allotted to her, by the first respondent, on 29.5.1988, had been transferred to the second respondent, by the first respondent, on 27.6.1994, based on a forged document. Therefore, the transfer of the plot in question, to the second respondent, by the first respondent, on 27.6.1994, is arbitrary and illegal and therefore, the said allotment should be cancelled. In such circumstances, the petitioner has preferred the present Writ Petition before this Court, under Article 226 of the Constitution of India.

4. The learned counsels appearing on behalf of the respondents 1 and 2 had submitted that the petitioner had filed a suit, in O.S.No.3987 of 2005, on the file of the XVI Assistant Judge, City Civil Court, Chennai. The said suit which had been filed for a bare injunction had been dismissed by a judgment and decree passed by the XVI Assistant Judge, City Civil Court, on 8.3.2010. It has also been submitted that the petitioner has not been in a position to show that the allotment of the plot in question in favour of the second respondent, by the first respondent, is based on a forged document. The petitioner has also not preferred any criminal complaint before the appropriate authorities concerned.

5. The learned counsels had further submitted that the relief prayed for by the petitioner cannot be granted by this court, by issuing a Writ of Mandamus. It is for the petitioner to establish her rights, if any, in respect of the plot in question, by moving the appropriate civil forum and by approaching the authorities concerned, by invoking the criminal jurisdiction. Further, the petitioner has not challenged the allotment order, dated 27.6.1994, issued by the first respondent in favour of the second respondent. As such, the Writ Petition is liable to be dismissed.

6. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, it is noted that the petitioner has not challenged the order issued by the first respondent transferring the plot in question, to the second respondent, by an order, dated 27.6.1994. It is also noted that the petitioner has preferred a civil suit, in O.S.No.3987 of 2005, before the XVI

Assistant Judge, City Civil Court, Chennai, for a bare injunction. The said suit had been dismissed on 8.3.2010. The petitioner has not pursued the matter further. It is also noted that there is nothing shown to substantiate the claim of the petitioner that the transfer order had been passed by the first respondent, on 27.6.1994, in favour of the second respondent, based on a forged document. Even otherwise, it is for the petitioner to approach the appropriate forum to seek her relief, if any, in accordance with law. In such circumstances, this Court is of the considered view that the relief prayed for by the petitioner, in the present writ petition, cannot be granted. Hence, the Writ Petition stands dismissed. However, it goes without saying that it may be open to the petitioner to seek her remedies, if any, before the appropriate forum, in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

sd/
ASSISTANT REGISTRAR(CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

csh

To

1. The Chairman,
Tamil Nadu Slub Clearance Board,
Chennai.

+1 CC to MR. G.Appavu ADVOCATE. SR.NO. 51812
+1 CC to MR. S.Udayakumar ADVOCATE. SR.NO. 51769
+1 CC to MR. R.V.Babu ADVOCATE. SR.NO.52078

WEB COPY

W.P. No.27921 of 2012

CO-KU

JD 27/10/2015