

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.04.2015

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

W.P.No.4094 of 2013
and M.P.Nos.1 to 3 of 2013

Muthulakshmi

.. Petitioner

-vs-

- 1.The Chairman,
Tamilnadu Slum Clearance Board,
Kamarajar Road, Chennai. 600 005
- 2.The Inspector General of Registration,
Santhome High Road, Santhome,
Mylapore, Chennai. 600 004
- 3.The Sub Registrar
O/o.The Sub Registrar
Purasawakkam SRO,
Purasawakkam, Chennai.7
- 4.The Commissioner of Police,
Egmore, Chennai.8
- 5.The Inspector of Police,
P-1 Puliyanthope Police Station,
Puliyanthope, Chennai.
- 6.Jagadalapradhapan
- 7.Thilaga
- 8.Samshad Begum

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of writ of Mandamus to direct the 1st respondent to allot the property at No.361, Ambedkar Nagar 2nd street, Puliyanthope, Chennai 600 012, on the basis of the petitioner's representation dt.05.02.2013 to the name of the petitioner.

For Petitioner : Dr.G.Krishnamurthy
for Mr.A.Thirumaran.

For Respondents : Mr.M.Perumal for R-1
: Mr.R.Vijayakumar
A.G.P. For RR 2 to 5
: Mr.K.P.Chandrasekaran
for RR6 and 7
: Mr.Dalit Tiger C.Ponnusamy
for R-8

O R D E R

By consent, the writ petition itself is taken up for final disposal.

2.Heard Dr.G.Krishnamurthy, learned counsel appearing for the petitioner, Mr.M.Perumal, learned standing counsel appearing for the first respondent, Mr.R.Vijayakumar, learned Additional Government Pleader for respondents 2 to 5, Mr.K.P.Chandrasekaran, learned counsel for respondents 6 and 7 and Mr.Dalit Tiger C.Ponnusamy, learned counsel for 8th respondent.

3.The petitioner, Muthulakshmi, W/o.Janakarajan, has filed this writ petition praying for issuance of writ of mandamus to direct the 1st respondent to allot the property at No.361, Ambedkar Nagar 2nd street, Puliyanthope, Chennai 600 012, by considering her representation dated 05.02.2013. The petitioner would state that the said property was originally allotted to one Dayalan, S/o.Ranganathan, who is stated to have orally transferred the same to the petitioner's father-in-law, Late.Thiru.Ganesan. It is further stated that the said Thiru.Ganesan was living in the property and the petitioner married Janakarajan on 20.04.1989 and after her marriage with Janakarajan, the petitioner was living in the said property. The petitioner would further state that her father-in-law, Ganesan, died intestate leaving behind 8 legal heirs, namely, (1)Jagadala Pradhavan, (2) Jothiwar, (3) Vishnu Kumar, (4) Jeevan Prabhu, (5) Jayarajendra Nehru, (6) Udhayamurthi, (7) Samprasad and (8) Janagarajan. The petitioner would further state that the 6th respondent is none other than the elder brother of her husband, who retired from Food Corporation of India and he has made an attempt to grab the property and has fabricated certain documents to show as if he was Dayalan, and his wife, Thilaga, was the wife of Dayalan and got a sale deed registered from the 1st respondent in Document No.3398 of 2012. Therefore, it is alleged that the 6th and 7th respondents impersonating as Dayalan and his wife, Thilaga, executed a sale deed in favour of the 8th respondent dated 10.10.2012 bearing Document No.3661 of 2012. The petitioner would further allege that based on the said document, the 8th respondent is causing vandalism in the property and therefore, she has sent a representation to the Tamil Nadu Slum Clearance Board (TNSCB) to conduct a proper enquiry in to the matter.

4. Though certain allegations have been made against Dayalan, the said Dayalan has not been impleaded as a party and furthermore, the sale deed executed in favour of the allottee by the Slum Clearance Board is also not before this Court. Therefore, unless and until the petitioner is able to establish that fraud had been played at the very inception, the subsequent transactions cannot be gone into, since they are between private parties and are purely civil transactions.

5. The 8th respondent has filed a counter-affidavit inter alia contending that the said plot was allotted to Dayalan vide allotment letter No.4324 dated 27.11.1991 and the said Dayalan was in enjoyment of the property and he had obtained No Objection Certificate from the Slum Clearance Board and obtained water supply, drainage connection, electricity, etc. on 29.07.2011 and the ration card was also issued to Dayalan showing the very same property as his residential property and based on all the documents, the Slum Clearance Board has executed a sale deed in favour of Dayalan and his wife, Thilaga, by sale deed dated 18.09.2012, bearing Document No.3398 of 2012 on the file of Sub Registrar, Purasawalkam. It is submitted by the 8th respondent that Dayalan and his wife, Thilaga, submitted all the original documents to her and after verification of the same and after satisfying themselves that Dayalan and his wife had a saleable interest in the property, the 8th respondent has purchased the same vide sale deed dated 10.10.2012 under registered document No.3661 of 2012. The 8th respondent would further state that she being a Muslim lady and presently staying in the property, is prevented from enjoying the fruits of the property on account of the troubles given by the writ petitioner and others.

6. In the light of the above factual position, the disputes between Dayalan and the petitioner has to be sorted out only before the Civil Court, if there is any grievance. Similarly, the dispute between the petitioner and respondents 6 to 8 is also a civil dispute. The only allegation, which the Slum Clearance Board can go into, is as to whether the sale deed executed in favour of Dayalan and his wife Thilaga was after due verification of the credentials. Hence, to that extent alone, the Slum Clearance Board would enquire into the matter.

7. Accordingly, while declining to grant the relief as sought for by the petitioner, there will be a direction to the Slum Clearance Board to conduct an enquiry into the matter as to whether the sale deed executed in favour of Dayalan and Thilaga vide Document No.3398 of 2012 was validly done, after due verification of all the documents. In the said enquiry, the petitioner as well as the 8th respondent shall be directed to appear either in person

or through their authorised representative and after conducting the enquiry, the Competent Authority of the Slum Clearance Board shall pass a speaking order on merits and in accordance with law. The direction shall be complied with within a period of three months from the date of receipt of a copy of this order.

8.The Writ Petition is, accordingly, disposed of. No costs. Consequently, connected M.Ps. are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

sra

To

- 1.The Chairman,
Tamilnadu Slum Clearance Board,
Kamarajar Road, Chennai.
- 2.The Inspector General of Registration,
Santhome High Road, Santhome,
Mylapore, Chennai.
- 3.The Sub Registrar
O/o.The Sub Registrar
Purasawakkam SRO,
Purasawakkam, Chennai.
- 4.The Commissioner of Police,
Egmore, Chennai.
- 5.The Inspector of Police,
P-1 Puliyanthope Police Station,
Puliyanthope, Chennai.

1 cc to M/s.A. Thirumaran, Advocate, Sr. 20099
1 cc to M/s.S. Dalit Tiger C. Ponnusamy, Advocate, sR. 20386

W.P.No.4094 of 2013

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