

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.5144 of 2014

P. Shanthi

.. Petitioner

Vs.

1.Tamil Nadu Housing Board
represented by its Chairman
Nandanam
Chennai-35.

2.R.Sivakumar

3.Indian Bank
represented by its Manager
Jafferkhanpet Branch
Ashok Nagar, Chennai-83.

... Respondents

The writ petition is filed under Article 226 of the Constitution of India praying for the issue of a writ of mandamus, directing the first respondent to cancel the sale deed, dated 4.3.2013 registered as Doc.No.621 of 2013 and to cancel the sale deed, dated 11.3.2013 registered as Doc.No.622 of 2013 executed in favour of the second respondent and consequently, direct the first respondent to execute the sale deed in favour of the petitioner.

For Petitioner : M/s.S.Udayakumar

For Respondent No.1 : Mr.V. Anandhamoorthy

For Respondent No.2 : Mr.J. Nandagopal

For Respondent No.3 : Mr. R.M.Subbiah

ORDER

Heard the learned counsel, appearing on behalf of the petitioner, as well as the learned counsels, appearing on behalf of the respondents.

2. This writ petition has been filed, by the petitioner, praying that this Court may be pleased to issue a Writ of Mandamus, directing the first respondent to cancel the sale deed, dated 4.3.2013, registered as Document No.621 of 2013, and to cancel the sale deed, dated 11.3.2013, registered as

Document No.622 of 2013, executed in favour of the second respondent, and consequently, direct the first respondent to execute the sale deed in favour of the petitioner.

3. The petitioner has stated that she is the daughter of Late R. Padmanaban and his wife Late Gajalakshmi. The father of the petitioner was an employee in the State Government. While so, he had applied for the allotment of the Housing Board flat. The Tamil Nadu Housing Board had also allotted a flat, bearing No.H2, 55th Street, Ashok Nagar, Chennai, in the ground floor, having a plinth area of 650 sq.ft.

4. It has been further stated that the father of the petitioner, R.Padmanaban, had died on 9.4.1993, leaving behind the petitioner and her mother, Gajalakshmi, and also one Nirmala, who is his second wife. The said Nirmala, who had no issues, had died on 28.8.2013.

5. The death of the father of the petitioner, on 9.4.1993, had been intimated to the first respondent, by a letter, dated 23.7.1997. On receipt of such intimation, the first respondent, had directed the petitioner to pay the balance amount of Rs.24,100/-, being the tentative cost of the flat.

6. While so, the first respondent had re-allotted the flat to the said Nirmala, who had claimed to be the legal heir of late Padmanaban. Thereafter, the said Nirmala had sold the property to the second respondent.

7. Both the sale deeds entered into between the first respondent and Nirmala, as well as the sale deed entered into between Nirmala and the second respondent had been questioned, by the petitioner in this writ petition, on the ground that they are invalid in the eye of law.

8. The learned counsel, appearing on behalf of the first respondent had submitted that the petitioner has preferred, a civil suit, in C.S.No.169 of 2016, before this Court, seeking to declare the petitioner as the legal heir of Late Padmanaban and to declare the above mentioned sale deeds as null and void, in C.S.No.169 of 2016.

9. It has also been stated that the second respondent had filed the Original Suit, in O.S.No.4678 of 2013, on the file of VIII Assistant Judge, City Civil Court, Chennai, against the petitioner, and her husband, praying for a decree of permanent injunction .

10. In view of the disputed questions of fact, which cannot be decided in the present writ petition, and in view of

the fact that the petitioner has preferred a civil suit in C.S.No.169 of 2016, before this Court, this Court does not find it proper to grant the relief, as prayed for, in the present writ petition.

The writ petition stands dismissed. However, it goes without saying that, it may be open to the petitioner to pursue her remedies, if any, in the suit, in C.S.No.169 of 2016, said to be pending on the file of this Court. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rnb

To

The Sub Assistant Registrar
Original Side,
High Court, Madras.

1 cc to Mr.S.Udayakumar, Advocate, sr.44540
1 cc to Mr.V.Anandhamoorthy, Advocate, sr.44469
1 cc to Mr.J.Nandagopal, Advocate, sr.44515

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gr co
kra 01.09.2016

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