

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2016

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.5986 of 2013
and M.P.No.1 of 2013

V.Ramakrishnan

.. Petitioner

Versus

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai.
2. The Executive Engineer,
Special Division-II,
TNHB, Sivananda Colony
Coimbatore 641 005.

3. N.Pushpa W/o.Natarajan (Late) .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, pleaded to issue a writ of mandamus order or direction in the nature of writ directing the respondents 1 & 2 to execute the sale deed in the name of this petitioner in respect of LIG House flat No.513 & 514 in Uppillipalayam, Housing Unit Special Division in Singhanallur Neighbourhood scheme at Coimbatore.

For Petitioner : Mr.R.Margabandhu

For Respondents: Mr.V.Anandamurthy,
Standing Counsel for R1 & R2
No appearance

O R D E R

The prayer in the writ petition is for writ of mandamus directing the respondents 1 & 2 to execute the sale deed in the name of the petitioner in respect of LIG House flat No.513 & 514 in Uppillipalayam, Housing Unit Special Division in Singhanallur Neighbourhood scheme at Coimbatore.

2. According to the petitioner, the subject flats were allotted in the name of Mr.Natarajan, who is the petitioner's brother. Though the allotment was made in the name of Natarajan, the entire cost of the flats were paid by the petitioner. Subsequently, the said Natarajan died on 25.03.92 and the allotment ordered was changed in the name of third respondent who is the original allottee's wife. Since the entire sale consideration was paid by the petitioner, he had filed a suit in O.S.No.528 of 2013 before the First Additional District Munsif Court, Coimbatore seeking for a mandatory injunction. By a judgment and decree dated 05.06.2015 the learned I Additional District Munsif, Coimbatore had decreed the suit and consequently directed the second defendant therein to convey the suit property in favour of the plaintiff and had also granted a consequential injunction restraining the first defendant from any way entering with his peaceful possession and enjoyment of the suit property. In spite of the decree, the sale deed has not been executed in favour of the petitioner and hence he has filed the present writ petition.

3. Heard Mr.R.Margabanthu, learned counsel appearing for the petitioner and Mr.V.Anandamurthy, standing Counsel for first and second respondents. The third respondent had refused to receive the notice sent by this Court and there is no representation on her behalf today.

4. The grievances of the petitioner is that, in spite of the decree with a specific direction to the second respondent to convey the subject flats in favour of the petitioner, the same has not been complied with. The learned counsel for the first and second respondents submitted that, though he has intimated the respondents about the listing of the matter today, they had not instructed him in this regard. It is needless to point out that, if no application is filed before the Civil Court to set aside the exparte order or any appeal being filed against the said decree, the respondents are bound by the decree and hence the sale deed ought to have been executed in favour of the petitioner.

5. Under such circumstances, the petitioner is permitted to make a fresh representation to the second respondent setting forth all his grievances and on receipt of such representation, the second respondent shall consider the same in the light of the judgment and decree dated 05.06.2015 passed in O.S.No.528 of 2013 on the file of the First Additional District Munsif, Coimbatore and execute the sale deed in favour of the

petitioner, within a period of six weeks from the date of receipt of a copy of this order.

6. With the above observations this writ petition is allowed. No costs. Connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dpq
To

1. The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai.
2. The Executive Engineer,
Special Division-II,
TNHB, Sivananda Colony
Coimbatore 641 005.

+1cc to Mr.R.Margabandhu, Advocate Sr.65397
+1cc to Mr.V.AnandhaMurthy, Advocate Sr.65338

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srg 08/12/2016

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