

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.33355 of 2016
WMP NO.28812 OF 2016

M.Malliga

... Petitioner

Vs

1. The Registrar of Co-operative Societies (Housing)
O/o. The Registrar of Co-operative Societies (Housing),
Housing Board Complex, Nandanam, Chennai-35.
2. The Dy.Registrar of Co-operative Societies (Housing),
Chennai Region, Ramanathan Street, T.Nagarm
Chennai-17.
3. The President,
Periyar Nagar Govt.Servants Co-operative Housesite
Distribution Society Ltd.,
Thiruvalluvar Co-operative Thirumana Maaligai,
29, Karthikeyan Salai, Periyar Nagar,
Chennai-600 082.

... Respondents

Writ petition filed under Article 226 of the Constitution of India to issue an order or direction or writ particularly in the nature of Writ of Certiorarified Mandamus calling for the records in the connection with the eviction notice dated 28.01.2016 and the show cause notice dated 09.05.2016 issued by the 3rd respondent herein and quash the same and consequently to direct the 3rd respondent to execute the sale deed in favour of the petitioner in respect of the property situated at plot No.E 159, 12th Cross Street (13th Street), Periyar Nagar, Chennai-600 082.

For Petitioner : Dr.R.Sampathkumar

For Respondents : Mr.L.P.Shanmughasundaram
Special Government Pleader

ORDER

Heard Dr.R.Sampathkumar, learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader accepting notice for the respondents and with the consent on either side, the writ petition is taken up for final disposal.

2. The petitioner challenges the eviction notice dated 28.01.2016 and the show cause notice dated 09.05.2016 of the 3rd respondent and with a further prayer to direct the 3rd respondent to execute the sale deed in favour of the petitioner herein in respect of the property in question.

3. The learned counsel for the petitioner would submit that in somewhat identical matter, this Court, in WP.No.6570/2016, vide order dated 27.06.2016, has disposed of the said writ petition with certain observations and directions and hence, prayed that this writ petition may also be disposed of in the same lines.

4. Heard the learned Special Government Pleader appearing for the respondents on the submissions made by the learned counsel appearing for the petitioner.

5. It is seen that this Court, in somewhat identical issue, viz., in WP.No.6570/2016 [Mrs.G.Devika Lakshmi Vs.The Registrar of Cooperative Societies [Housing], Nandanam, Chennai 600035 and others], has, vide order dated 27.06.2016, held as follows:-

"7 The third respondent is not a stranger to the place and their office is located in the same area, i.e Periyar Nagar itself, where the petitioner is living for the past twenty one years. Even by virtue of adverse possession, the petitioner would have been prevented directly because the third respondent is having office in the same area. Therefore, it is too late for the third respondent to deny the benefit of sale deed to the petitioner. Technicality cannot be employed to defeat the rights of the petitioner who has been continuously enjoying the property right from the year 1995. Therefore, it is the duty of the third respondent to execute the sale deed in favour of the petitioner. The third respondent is directed to execute the sale deed in favour of the petitioner as the entire sale

consideration was paid as early as on 21.01.1997 and it is only a formality which has to be complied with.

8. The Co-operative Society has been formed in the interest of the Government officials and the petitioner who rightly discharged the obligation by payment of entire sale consideration, has got every right to sell the property. After sale of the property, the said Ramaiah also died and therefore interest of justice requires a direction. Hence, the third respondent is directed to execute the sale deed in favour of the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order. The learned Special Government Pleader for the respondents would submit that the petitioner should co-operate with the Society for execution of sale deed and therefore, the petitioner is directed to co-operate with the third respondent to get the sale deed executed."

6. Hence, the present writ petition stands disposed of in the same lines. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

AP

To

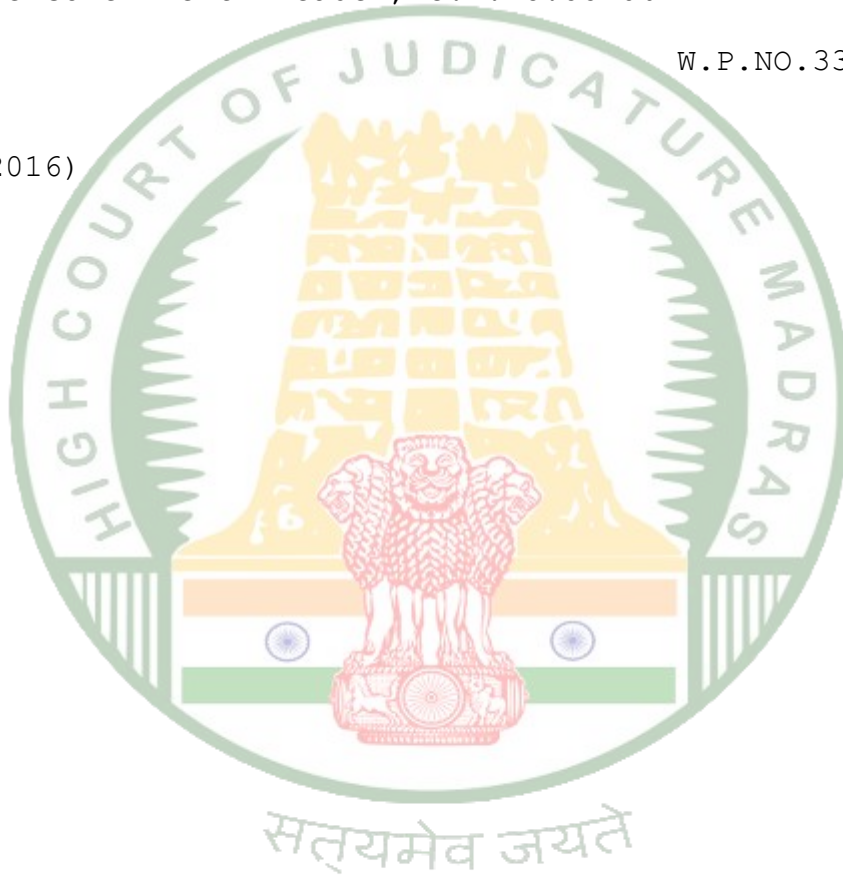
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+1cc to Mr.L.P.Shanmughasundaram, Advocate, S.R.No.54971
+2cc's to Dr.R.Sampathkumar, Advocate, S.R.No.54727
+1cc to the Government Pleader, S.R.No.55186

W.P.NO.33355 of 2016

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CA(03/10/2016)



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