



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :03.06.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) No.9750 of 2016

and

WMP (MD) No.7732 of 2016

Mrs.Prisca Raja

..Petitioner

vs.

The Commissioner,
Madurai Municipal Corporation,
Madurai - 625 002.

..Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned notice passed by the respondent in Mava2/18618/2001, dated 28.04.2016 and quash the same and further direct the respondent to execute the sale deed in favour of the petitioner regarding Door No.1-A, Corporation Teacher's Colony, Subramaniyapuram 3rd Lane, Madurai - 625 011, Madurai District.

For Petitioner :Mr.N.Tamilmani

For Respondent :Mr.T.Balarathina Kumar

ORDER

The petitioner has come to this Court seeking issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned notice passed by the respondent in Mava2/18618/2001, dated 28.04.2016 to quash the same and to direct the respondent to execute a sale deed in favour of the petitioner regarding Door No.1-A, Corporation Teacher's Colony, Subramaniyapuram 3rd Lane, Madurai - 625 011, Madurai District.

2. Mr.T.Balarathina kumar, learned counsel takes notice for the respondent.

3. In the impugned order, the respondent Commissioner, Madurai Municipal Corporation, has directed the petitioner to vacate and hand over the tenement within fifteen days from the date of receipt of a copy of that order, on the ground that the Writ Appeals filed by the petitioner's husband and a similarly placed person in W.A.Nos.1492 and 1493 of 1998 and M.P.Nos.16425 to 16427 of 1998 were dismissed on 11.11.1998.

<https://hcservices.courts.gov.in/hcservices> case of the petitioner is that her husband late.Jeyapandiya Raja was working as a Teacher and Headmaster from 1959 to 1990 in the schools run by the respondent. Further, the



petitioner was also working as a Teacher and Headmistress from 1963 to 1994 in the schools run by the respondent. While so, the respondent allotted a house bearing Door No.1-A, L.I.G. Colony, Subramaniyapuram, Madurai, to the husband of the petitioner through allotment order, dated 22.08.1964. Pursuant thereto, they were living in the above said house by regularly paying the rent as fixed by the respondent. Subsequently, the husband of the petitioner died leaving behind her and two children as legal heirs. In the meanwhile, a resolution was passed by the respondent council on 30.03.1974 in resolution No.1548, wherein it was resolved to execute a sale deed in favour of the inhabitants of the houses belonging to the respondent situated at East Madurai, Subramaniapuram Corporation Colony. On the basis of the resolution, the State Government passed G.O.Ms.No.649, dated 16.04.1977 permitting the respondent to sell houses to the inhabitants. Thereafter, based on the above said G.O., the respondent issued a list through memorandum, dated 10.12.1977 in V7/2921/77, wherein the name of the petitioner's husband was found place in Serial No.30. But the respondent had not sold the house to the petitioner's husband. As the husband of the petitioner and the petitioner served 31 years of service as a Teacher and Headmaster in the respondent's school and living in the above said house for more than 51 years, the respondent ought to have executed a sale deed in favour of the petitioner's husband. Since there was a refusal, the petitioner's husband filed W.P.No.13795 of 1990 before this Court, but the same was dismissed on 25.10.1998. As against that, the petitioner's husband and one another similarly placed person preferred W.A.Nos.1492 and 1493 of 1998. But the same were also dismissed. Pursuant thereto, the present show-cause notice has been issued.

5. The learned counsel for the petitioner would submit that when similarly placed persons were given sale deed by receiving the market value of the land, it is not known why the petitioner's husband alone was discriminated.

6. But, that argument cannot be advanced before this Court when the very same ground had also been considered against the petitioner's husband in W.P.No.13795 of 1990 on 25.09.1998 and again in W.A.Nos.1492 and 1493 of 1998 vide order, dated 11.11.1998. Further, this Court sitting single cannot reopen the order passed by the Division Bench of this Court, for, this Writ Petition is hit by the Principle of resjudicata, therefore the same is not maintainable.

7. In the result, this Writ Petition is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AS)



To

The Commissioner,
Madurai Municipal Corporation,
Madurai - 625 002.

+1cc to M/s.N.Tamilmani, Advocate in SR.27762

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