

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
And
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.638 of 2015
And
M.P.No.1 of 2015

Tmt.R.Vijayalakshmi

... Appellant

Vs.

1. The Chairman
Tamil Nadu Housing Board,
Nandanam,
Chennai - 600 035.
2. The Executive Engineer,
Tamil Nadu Housing Board,
Besant Nagar Division,
Besant Nagar,
Chennai - 600 020.
3. The Superintendent,
(Marketing and Service)
Tamil Nadu Housing Board,
Besant Nagar Division,
No.48, Muthulakshmi Salai,
Adyar,
Chennai - 600 020.

... Respondents

Prayer:

Writ appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 30.01.2015 in W.P.No.207 of 2014.

Prayer in W.P.No.207/2014:

Writ Petition filed under article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent bearing impugned Letter No. Allotment- 2/ 600500/ 2013/ dated 21.8.13 and quash the same and consequently direct the respondents to allot/ regularize the allotment made in favour petitioners son Late.R. Munirathinam bearing Letter No.AL2/ 600500/ 2013 dated 2.5.13 bearing Flat No.L-02 in First Floor in 56 LIG Flats at Indira Nagar Scheme Chennai under general public category scheme to the petitioner.

For Appellant : Mr.S.Udayakumar
For Respondents: Mr.V.Anandhamurthy
Additional Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J.)

This intra court appeal is directed against the order dated 30.01.2015 in W.P.No.207 of 2014, directing the appellant to produce legal heir certificate for allotment of a flat which was already allotted to her son.

2.The appellant is the mother of the Thiru.R.Munirathinam who made an application for allotment of a residential flat under the low income category in the Scheme by name Indira Nagar Housing Scheme floated by the Tamil Nadu Housing Board. The name of the appellant was shown as a co-applicant in the application. Even before the drawal of lots, the original applicant died. Though the appellant made request to give allotment to her, the same was not adhered to by the Tamil Nadu Housing board on the ground that since the death took place even before the allotment it would not be possible to allot the flat to her.

3.The writ petition filed by the appellant was disposed of by the learned Single Judge with a direction to her to produce the legal heir certificate and thereafter the Tamil Nadu Housing Board was directed to consider the matter on merits.

4.Since the appellant contended that she was a co-applicant along with her son, we have directed the learned Standing Counsel for Tamil Nadu Housing Board to produce the original file.

5.The application submitted by Thiru.R.Munirathinam on 07.03.2013 which is available on file clearly indicates that the name of the appellant was shown as a co-applicant. Therefore, the contention taken by the Tamil Nadu Housing Board that as on the date on which the draw was taken, the original applicant was no more and as such allotment could not be made to the appellant has no basis at all. Since the appellant was shown as a co-applicant, she is entitled to the allotment of the flat in spite of the death of the principal applicant.

6.We are informed by the learned counsel for the appellant that the appellant has already remitted a sum of Rs.2,47,000/-. Even

though the appellant tendered the balance amount, the same was not accepted by the Tamil Nadu Housing Board.

7.The documents produced before us clearly indicates that the appellant was a co-applicant with her son. The death of the main applicant is immaterial. The appellant is therefore correct in her contention that the Tamil Nadu Housing Board ought to have issued order of allotment in her favour. We are therefore of the view that the appellant must succeed.

8.The impugned letter dated 21.08.2013 is set aside. We direct the Tamil Nadu Housing Board to issue the order of allotment of the flat in question to the appellant. The appellant is directed to pay the balance amount on receipt of intimation from the Tamil Nadu Housing Board. The name of the appellant shall be shown as the allottee in the records. The order of allotment should be issued within a period of two weeks from the date of receipt of a copy of this judgment. The appellant must be given four weeks time thereafter to make the balance payment without interest.

9.The intra court appeal is allowed as indicated above. No costs. Consequently, the connected miscellaneous petition is also closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Chairman
Tamil Nadu Housing Board,
Nandanam,
Chennai - 600 035.

2.The Executive Engineer,
Tamil Nadu Housing Board,
Besant Nagar Division,
Besant Nagar,
Chennai - 600 020.

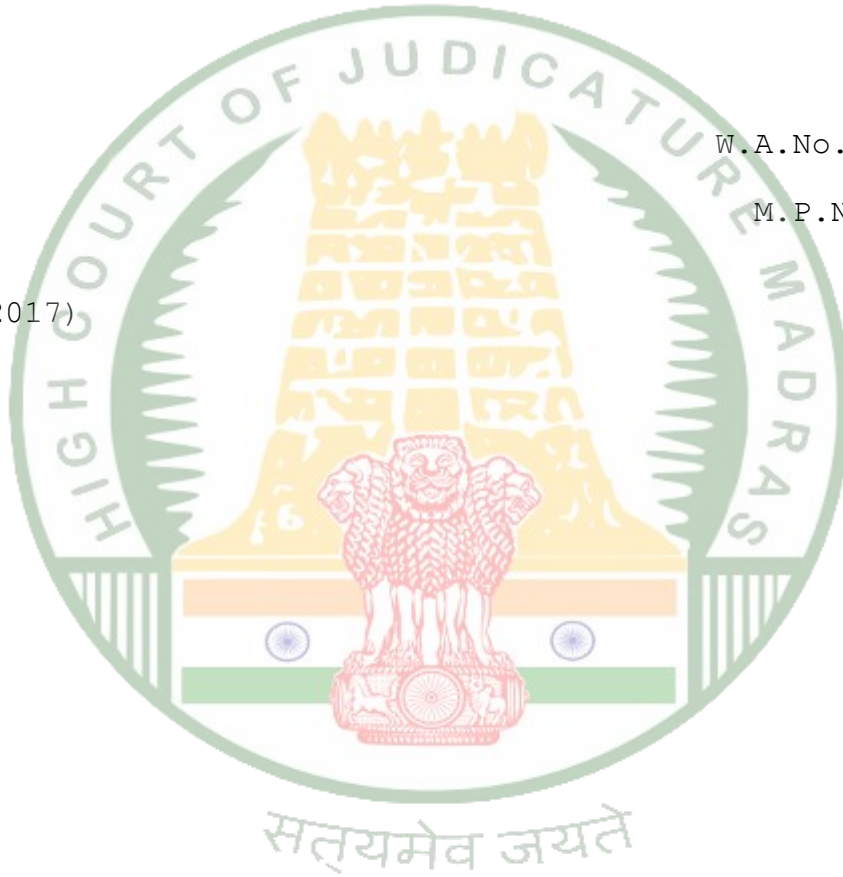
3. The Superintendent,
(Marketing and Service)
Tamil Nadu Housing Board,
Besant Nagar Division,
No.48, Muthulakshmi Salai,
Adyar,
Chennai - 600 020.

+1 CC to Mr.S. Udayakumar, advocate sr 80194.

+1 cC to Mr.V. Anandhamoorthy, Advocate sr 80672.

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And
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PA (CO)
SP(17/11/2017)



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