

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.Nos.27809 to 27816 of 2015
and MP.No.1 of 2015 in
W.P.Nos.27809 to 27816 of 2015

A.Rajamuthu

..Petitioner in
WP.No.27809 of 2015

S.V.Venkatachalam

..Petitioner in
WP.No.27810 of 2015

S.Jaganathan

..Petitioner in
WP.No.27811 of 2015

P.Pandurangan

..Petitioner in
WP.No.27812 of 2015

P.Padmanaban

..Petitioner in
WP.No.27813 of 2015

S.Balu

..Petitioner in
WP.No.27814 of 2015

H.Subramanian

..Petitioner in
WP.No.27815 of 2015

K.Jayaraman

..Petitioner in
WP.No.27816 of 2015

Vs.

1. The Secretary to
Government of Puducherry,
Chief Secretariat Office,
Pudhcherry.

2. The Registrar of
Cooperative Societies,
V.V.P.Nagar, Thattanchavadi,
Puducherry 605 009.
3. The Deputy Registrar of
Cooperative Societies(Housing),
V.V.P.Nagar, Thattanchavadi,
Puducherry 605 009.
4. The Secretary,
Puducherry State Cooperative Housing,
Federation Limited, (P.486),
7th Cross, Thanthai Periyar Nagar,
Puducherry 605 005.
5. The Secretary-cum-Administrator,
The Puducherry Cooperative Housing
Society Limited, (P.56),
Kamarajar Salai, Ilango Nagar,
Puducherry 605 011.

...Respondents in all
Writ petitions

COMMON PRAYER:

The Writ Petitions are filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, calling for the records in pursuance to the impugned letter in Ref.No.PHS/Admn/733/2015 dated 13.07.2015 of the fifth respondent and quash the same and direct the fifth respondent herein to execute the sale deeds in favour of the petitioners by receiving necessary consideration in respect of i) Flat No.7, R.H.S.Building, GPF-4, ii) G.F.No.2, R.H.S.Building, iii) S.F.6, R.H.S.Building, iv) S.F.11, R.H.S.Building, v) S.F.12, R.H.S.Building, vi) F.F.9, R.H.S.Building, vii) F.F.4, R.H.S.Building and viii) G.F.No.9, R.H.S.Building, 7th Cross at Thanthai Periyar Nagar in Puducherry 605 011.

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For Petitioner
in all WP's

: Mr.M.Saravana Kumar

For R1 to R3
in all WP's

: Mr.J.Kumaran,
Government Advocate (Pondy)

For R4 and R5
in all WP's

: Mr.R.Sreedhar

COMMON ORDER:

The petitioners being members of the fifth respondent society had occupied the flats of the fifth respondent society as mentioned in the prayer respectively, on tenant cum lease basis in the year 1988. The society had assured the petitioners that the flats would be registered in their names following the terms. At first, the rent was fixed as Rs.290/- per month. After periodical increment, the present rent is Rs.850/- per month. The petitioners made several representations to the fifth respondent requesting him to take steps to register the flats as assured. Now, the fifth respondent is in the mind of vacating the petitioners from the flats and demolishing the flats in order to use the place for commercial purpose. For this, the fifth respondent has given a reason that the buildings are very much damaged. But, according to the petitioners, only maintenance work is to be made for regular use of the buildings. Further, the fifth respondent has now entered into new construction agreement with the third parties / business people for converting into commercial purpose. In this regard, the petitioners made representation to respondents 1 to 4. But, the petitioners have not received any reply. In the meantime, the fifth respondent has issued letter to the petitioners stating that the petitioners should vacate the flats within a short period or they will be forcibly vacated. Challenging the said notice dated 13.07.2015, the petitioners have filed the writ petitions before this Court.

2. The learned counsel for the petitioners would submit that, without providing an opportunity to the petitioners, the impugned order has been passed by the fifth respondent which is totally non application of mind. Thus, the fifth respondent has violated the principles of natural justice. Hence, challenging the impugned order, the petitioners have filed the writ petitions before this Court.

3. The learned counsel appearing for the fourth and fifth respondents would submit that the writ petitions are not maintainable in view of the Full bench judgment made in K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689, and hence, the writ petitions are liable to be dismissed.

4. Heard, the learned counsel of both sides and perused the materials available on record.

5. As rightly pointed out by the learned counsel appearing for the fourth and fifth respondents, it is observed that the writ petitions are not maintainable and are liable to be dismissed.

6. The writ petitions are dismissed as not maintainable. No costs. However, liberty is granted to the petitioners to approach before the appropriate forum under the provision of the Tamil Nadu Cooperative Societies Act, 1983, within a period of four weeks from the date of receipt of a copy of this Order. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to
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Chief Secretariat Office,
Pudhcherry.

2. The Registrar of
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V.V.P.Nagar, Thattanchavadi,
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The Puducherry Cooperative Housing
Society Limited, (P.56),
Kamarajar Salai, Ilango Nagar,
Puducherry 605 011.

+1 cc to M/s.R.Sreedhar advocate sr 48167

+1 cc to M/s.M.Saravanakumar Advocate sr 48942

+1 cc to the Government pleader(Pondicherry) sr nos.48587 & 48588

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