

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.18481 of 2017

S.Sekar

..Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep.by its Secretary,
Housing and Urban Development Department,
Fort St.George,
Chennai 600 009.
 2. The Registrar of Cooperative Societies,
Vepery, Chennai 600 007
 3. The Deputy Registrar of Cooperative Societies,
Chennai Region,
Ramasamy Street,
T.Nagar,
Chennai 600 017
 4. The Chennai Metropolitan Cooperative
Housing Society Ltd., No.900,
No.50, Ritherdon Road,
Vepery,
Chennai 600 007
 5. R.Dharmalingam
 6. M/s.Bhargav Foundation Pvt Ltd.,
Rep.by Mr.Murugesan, Director
No.91 & 92, Kodambakkam High Road,
Nungambakkam, Chennai 600 034
 7. Suresh
- ..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus directing the respondents 1 to 3 to consider and pass orders on the

representation dated 25.04.2016 made by the petitioner.

For Petitioner : Mr.Venkatesan

For Respondents : Mr.L.P.Shanmugasundaram, Special
Government Pleader for R4

: Mr.V.Selvaraj, Additional
Government Pleader for R1 to R3

: Mr.R.Murali for Mr.M.Vivekanandan
for R5

ORDER:

The brief facts of the case is as follows.

2. One, Mr.Murugesan and one, Mr.R.P.Dharmalingam approached the petitioner for purchasing the petitioner's land. So, the petitioner entered into an agreement dated July 2005 with M/s.Suresh, R.P.Dharmalingam and Sekar and executed a power of attorney in favour of the aforesaid Dharmalingam and Murugesan. The total sale consideration of a sum of Rs.1,81,83,000/- was fixed and a sum of Rs.10,55,000/- was paid by Dharmalingam and he assured that the balance sale consideration would be paid to the petitioner in phased manner as and when the lands are sold. Then, the aforesaid Dharmalingam gave four cheques amounting to Rs.1,00,00,000/- which were returned unpaid due to insufficient funds. The petitioner brought this fact to the notice of the fourth respondent cooperative society. The fourth respondent society by letter dated 27.12.2007 addressed to the Managing Director of M/s.Bhargav Foundation, Chennai / sixth respondent had stated that it had been decided to convey the land of an extent of 4.35 acres comprised in Survey No.385/4 and 384/1D to Mr.Shecker. Another compromise agreement dated 27.03.2012 was entered between the petitioner and the aforesaid Dharmalingam. But no payment has been made as per the compromise memo by the fifth respondent. Thereafter, the said Dharmalingam had absconded. Further, the petitioner had filed a petition in Crl.OP.No.15886 of 2016 before this Court to direct the Inspector of Police to refer the matter to District Land Grabbing Cell, Kancheepuram. Thereafter, it was transferred for investigation to the Inspector of Police, Central Crime Branch, EDF III Team XXI A, Vepery, Chennai and the same is pending. The second respondent vide letter dated 11.04.2017 directed the third respondent to take action against the petitioner's representation dated 25.04.2016. As the said representation is still pending, the petitioner has approached this Court to direct the respondents 1 to 3 to consider the petitioner's above representation.

3. The learned counsel for the petitioner would submit that the prayer in the present writ petition is for limited scope to consider petitioner's representation dated 25.04.2016 and hence this court may direct the respondents to consider request of the petitioner.

4. Mr.R.Murali, learned counsel takes notice for the fifth respondent.

5. The learned counsel appearing for the fifth respondent submitted that the petitioner has not disclosed some facts in the affidavit that the petitioner has filed a suit in CS.No.939 of 2006 and same has been re-numbered as OS.No.13150 of 2010 which is now pending on the file of XVII Additional City Civil Court, FTC-III, Chennai. Further, the fifth respondent had purchased the subject property and thereafter he sold the property in favour of the sixth respondent. Subsequently, the property was sold in favour of the fourth respondent. Therefore, in view of the pendency of the Civil Suit and the petitioner has already filed a Crl.OP before this court which is also pending, the other respondents cannot go into the dispute between the petitioner and the respondents 6, 7 and the fourth respondent and therefore, the writ petition is liable to be dismissed.

6. According to the learned Government Pleader, the petitioner, under Section 90 of the Act, is not a member of the Society. Therefore, the petitioner's grievances cannot be considered. The petitioner's grievance can only be agitated before the appropriate forum. The petitioner has approached the criminal forum and Civil Forum, therefore, the present writ petition filed by the petitioner is not maintainable, even for considering the said representation.

7. In the light of the above submissions made by the counsel for the parties, the main contention of the petitioner is that the petitioner has relied the letter dated 27.12.2007 issued by the fourth respondent to the sixth respondent. The aforesaid letter has been issued in the year 2007. Subsequently, the petitioner has agitated before the other forums and the same are pending. After lapse of ten years, filing a writ petition with a prayer to direct the second respondent to consider the petitioner's representation on the basis of the said letter, will not be entertained, to consider the relief as prayed in the present writ petition. Further, the petitioner is not a member of the society. Hence, no prima facie case is made out to entertain the writ petition. It is open to the writ petitioner to work out his remedy before the appropriate forum.

8. In view of the above facts, the writ petition fails, accordingly the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
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4. The Chennai Metropolitan Cooperative
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Vepery,
Chennai 600 007

+1cc to Government Pleader SR.No.52026
+1cc to Mr.L.P.Shanmugasundaram, Advocate SR.No.51605
+1cc to Mr.M.Vivekanadaa, Advocate SR.No.50832
+1cc to Mr.K.Venkatesan, Advocate SR.No.50837

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GN(12/09/2017)