

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.32061 of 2015

and

M.P.No.1 of 2015

Sasikala Raghupathy

Director, M/s.Vaani Estates Pvt. Ltd.,

Rep.by Power Agent C.P.Prashant Gopal,

No.60 (Old.No.100), 4th Street,

Abhiramapuram,

Chennai-18.

..Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary Housing &
Co-operative Department, Fort St.George,
Chennai-9.

2. The District Registrar/The Deputy Registrar,
Housing Co-operative Society,
O/o.District Society,
18, Ramanathan Street,
T.Nagar, Chennai-17.

3. Jaya Thamby

4. Maya Nayar

5. Lekha Nayar

6. The President,
Gandhi Nagar Co-operative House Construction Society Ltd.,
25, 3rd Main Road,
Gandhi Nagar, Chennai-20.

7. Rohit S.Shelat

8. Anil Kumar S.Shelat

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 2nd respondent in his impugned notice in Na.Ka.1324/2015/K dated 14.09.2015 and quash the same.

For Petitioner : Mr.D.Ravichander

For Respondents 1 & 2 : Mrs.T.Girija

For Respondents 3 to 5
& 7 & 8 : No Appearance

For 6th Respondent : No Appearance

ORDER

According to the learned counsel for the petitioner, the respondents 3 to 5 has filed the writ petition before this Court in W.P.No.19588 of 2015 with the prayer to dispose the petitioner's representation dated 13.05.2015. By order dated 03.07.2015, this Court directed the 2nd and 3rd respondents to dispose of the representation of the petitioner within a period of four weeks. Pursuant to the said direction of this Court, the Deputy Registrar, Registration Department has issued the impugned notice dated 14.09.2015 to appear before him for the enquiry on 29.09.2015. Challenging the said summons, the petitioner has filed the present writ petition before this Court.

2. According to the learned counsel for the petitioner, one Mrs.Sarada Sukumar has filed a suit in C.S.No.98 of 1960 against Mr.Shankar Reddi and the Society for specific performance. The said suit was decreed on 15.01.1963 and held that the Shankar Reddi has right for the nomination. Thereafter, Mrs.Sarada Sukumar has requested the society to allot the plot in favour of M/s.S.H.Shelat & sons. On 17.06.1970, after getting legal opinion, the Society transfers the nomination to M/s.Shelat & Sons. Thereafter the society has executed the sale deed on 04.02.1971 and registered in favour S.H.Shelat & Sons, a Partnership firm. A house was constructed on the property and stands registered in the name of the said partnership firm in Chennai Corporation records. The aforesaid shelat and brothers had offered for sale of the property to M/s.Vaani Estates, where the petitioner is the Director of the said Estate. The petitioner made the advertisement in the leading Newspaper that he intended to purchase the property and called for any objection towards purchase of the property. After paper publication, the petitioner purchased the property on 12.12.2013 for total consideration of Rs.21 Crores in favour of M/s.Vaani Estates. At that stage, one Ginju Fathima gave a complaint before the Inspector of Police, Adyar, claiming that she is the Power Agent and that their property is being trespassed upon and persons are claiming on the basis of fabricated false documents. The aforesaid

complaint was enquired into and closed as mistake of facts. The complaint is closed as civil dispute. Further, the 1st respondent registered First Information Report in Crime No.394 of 2014 based on the complaint of Jaya Thambi of Thiruvananthapuram.

3. Challenging against the First Information Report, Vaani Estates filed a writ petition in W.P.No.26128/2014 before this Court, to issue a Writ of Mandamus restraining the police not to interfere in the civil dispute or to settle the matter with the 2nd respondent. By order dated 21.11.2014, writ petition was disposed of, directing the petitioner to work out her remedy before the Criminal Appellate Jurisdiction. Thereafter, Crl.O.P.No.31176 of 2014 was filed before this Court for interim Anticipatory Bail and subsequently bail was granted. Further, Crl.O.P.No.32211 of 2014 was filed to quash the First Information Report. in Crime No.394 of 2014 and the said Criminal Original Petition is still pending before this Court. In the mean time, O.A.No.509 of 2014 was filed before this Court and the same was allowed against the respondents 3 to 5 in the present writ petition and the interim injunction was granted. Challenging the interim order, appeal has been filed before this Court and the same was dismissed with costs. At this stage, the present writ petition is coming up for final disposal before this Court.

4. According to the learned counsel for the petitioner, pursuant to the order passed in W.P.No.19588 of 2015, the aforesaid fact has not been disclosed by the petitioner and filed the aforesaid writ petition before this Court and obtained final order by directing the District Registrar/ The Deputy Registrar of Co-operative Societies, to consider the representation within four weeks. Pursuant to the said order, the Deputy Registrar of Co-operative Societies, namely the 2nd respondent has issued summon to the petitioner. According to the learned counsel for the petitioner, in view of the above said civil dispute is pending before this Court against the respondent, the 2nd respondent has no jurisdiction to entertain the petitioner's representation. Therefore, seeks to quash the said impugned summons issued by the 2nd respondent/Deputy Registrar of Co-operative Societies.

5. In view of the above said facts, it is clear that the subject matter is pending before this Court in C.S.No.417 of 2014 and injunction also obtained by the petitioner. In the said suit, the respondents 3 to 5 are also parties. Without disclosing the said facts, the respondents 2 to 6 have got final order from this Court in W.P.No.19588 of 2015 dated 03.07.2015. Therefore, liberty is granted to the petitioner to file appropriate application before this Court in W.P.No.19588 of 2015 and seek the relief to review the earlier order passed by this Court.

6. In view of the above facts and circumstances, the writ petition is disposed of, with liberty to the petitioner to file appropriate application, within a period of six weeks from the date of receipt of a copy of this order. Since the petitioner has already obtained an order of interim injunction, the 2nd respondent shall defer the proceedings for the period of twelve weeks. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssn

To

1. Secretary Housing & Co-operative Department,
The State of Tamil Nadu,
Fort St. George,
Chennai-9.

2. The District Registrar/The Deputy Registrar,
Housing Co-operative Society,
O/o. District Society,
18, Ramanathan Street,
T. Nagar, Chennai-17.

+1 CC to Mr.D.Ravichander, Advocate Sr.No.68554

+1 CC to Government Pleader, High Court, Chennai Sr.No.69440

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KP(14.11.2017)