

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 2735 of 2016

V.S. Chandrasekaran

... Petitioner

Vs.

1. The Liquidation Officer
Tamilnadu Electricity Board
Employees Co.-Op. Housing Society
No.20 Ramanathan Street
T. Nagar, Chennai - 17.

2. The Assistant Registrar (Housing)
Chennai Division
Chennai - 600 017.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the 2nd respondent in Na.Ka. No.108/2015/C dated 11.01.2016 and quash the same and consequently direct the 2nd respondent to rectify the defects made in the sale deed in Plot No.63 by allotting the vacant land in Plot No.52 of Tamilnadu Electricity Board Staff Co.Op.Housing Ltd., Menambedu Village, Ambattur Township to the petitioner and pass further orders.

For Petitioner : Ms. S. Meenakumari

For Respondents: Mr. L.P. Shamugha Sundaram
Special Govt. Pleader

O R D E R

The petitioner has filed the present writ petition, seeking to quash the proceedings of the 2nd respondent in Na.Ka. No.108/2015/C dated 11.01.2016 and consequently direct the 2nd respondent to rectify the defects made in the sale deed in Plot No.63 by allotting the vacant land in Plot No.52 of Tamilnadu Electricity Board Staff Co.Op.Housing Ltd., Menambedu Village, Ambattur Township to the petitioner.

2. Learned counsel for the petitioner would submit that the petitioner is working in Tamilnadu Electricity Board and is a member of the Tamilnadu Electricity Board Employees Co-operative Housing Society. The petitioner was allotted with plot No.53, by the Housing Society, at Ambattur, Menambedu Village. Later, he purchased Plot No.63, which was originally allotted to one R.P. Natarajan. According to the petitioner, the Plot No.52 lies in between his Plot Nos. 53 and 63, since there is no pathway to reach Plot No.63 some extent of plot No.52 would be provided to be used as a pathway to reach his plot No.63 and so he was orally informed by the officers of the respondent Society that Plot No.52 will also be settled in his favour and rectified sale deed would be issued shortly. But, the Housing Society was subsequently dissolved and there were no office bearers to effect the sale deed. Now, the 1st respondent is the appropriate authority to deal with the matter. Hence, the petitioner made several representations to the 1st respondent to settle Plot No.52 in his favour, enabling him to put constructions to his plot No.63. Since no orders were passed, the petitioner filed W.P. No.33646 of 2014 seeking for a direction to consider his representation. Pursuant to the orders of this Court, enquiry was conducted and the petitioner submitted all the available documents.

3. Learned counsel for the petitioner submitted that the 2nd respondent without properly understanding the case, has erroneously passed the impugned order, stating that the petitioner ought not to have purchased Plot No.63, while he has already been allotted with Plot No.53. Learned counsel for the petitioner further submitted that the 1st respondent is the Liquidation Officer and has been appointed to manage the funds of the society and to rectify all the defects in the sale proceeds caused during the existence of the Housing Society. Since the petitioner has no other access to reach his property in Plot No.63 and that plot No.52 cannot be given to anyone else except the petitioner, as he owns plot No.53 & 63 and there is no other pathway to reach his plot No.63. Further, it is stated that the petitioner is willing to pay the amount for the said land, calculated as per the market value on the date of his purchase of Plot No.63, namely, on 13.07.1999. Without considering any of the grounds raised by the petitioner, the impugned order has been passed and hence this writ petition is filed challenging the same.

4. Learned Special Government Pleader representing the respondents submitted that the petitioner can avail an alternative remedy, under Section 90 of the Co-operative Societies Act, 1988, to agitate the matter before the competent authority, but without availing the same, the petitioner has

approached this Court under Article 226 of the Constitution of India, is not maintainable. Therefore, this writ petition is liable to be dismissed.

5. Heard both sides and perused the material available on record.

6. Considering the submission of the learned Special Government Pleader and the facts of the case, it is held that this writ petition is not maintainable and the same is dismissed with, liberty to the petitioner to file an appropriate petition before the 2nd respondent, the Assistant Registrar (Housing), Chennai Division, Chennai, if so advised, within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

avr
To

1. The Liquidation Officer
Tamilnadu Electricity Board
Employees Co.-Op. Housing Society
No.20 Ramanathan Street
T. Nagar, Chennai - 17.
2. The Assistant Registrar (Housing)
Chennai Division
Chennai - 600 017.

+1cc to Mr.D.Balachandran, Advocate Sr.18241
+1cc to the Government Pleader Sr.18682

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