

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.33462 of 2016

Chinnammal

...Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.

2.The Administrative Engineer,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.

3.The Assistant Secretary (Plots),
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.

4.Chennai Metropolitan Development
Authority rep. by its
Member Secretary,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road, Egmore,
Chennai - 8.

...Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the fourth respondent to give consent and grant permission to the respondents 1 to 3 for the execution and registration of the sale deed in favour of the petitioner in respect of Plot No.128, Annai Sathya Nagar, Anna Nagar, Chennai - 102 comprised in T.S.No.18 Part, Block No.12 of Ayanavaram Village, Perambur Taluk and consequently direct the respondents 1 to 3 to execute and register sale deed in favour of the petitioner, within such period as may be directed by this Court.

For Petitioner	..	Mr.C.P.Sivamohan
For Respondents	..	Mr.B.Kesavan for R1 to R3
		R4 - No appearance

ORDER

The petitioner was allotted a plot by respondents 1 to 3 as early as 09.03.1992. The petitioner, thereafter, has put up construction. She has also paid the requisite dues payable to respondents 1 to 3. However, no sale deed was executed in favour of the petitioner as was done in the case of her neighbours. Under those circumstances, the petitioner has filed the present writ petition.

2.Learned counsel appearing for the petitioner submits that the reply given by the first respondent stating that consent will have to be obtained from the fourth respondent cannot be sustained in the eye of law as similarly placed persons have been given sale deeds. The petitioner has complied with all the conditions including the construction and payment of requisite dues in favour of respondents 1 to 3.

3.Learned counsel appearing for respondents 1 to 3 would submit that unfortunately the plot allotted to the petitioner was not mentioned in the list of plots covered under the conditions imposed in the approval of lay out by the fourth respondent. That is the reason why the fourth respondent is not giving the consent. However, the matter is under process for the purpose of getting concurrence from the fourth respondent.

4.Despite several opportunities, none appears for the fourth respondent. Though the name of the learned counsel appearing for the fourth respondent is printed in the cause list, the same position continues. The matter was also adjourned for filing counter affidavit on behalf of the fourth respondent. Unfortunately, even today, there is no representation for the fourth respondent.

5.The fact that the petitioner was duly allotted a plot by respondents 1 to 3 and the compliance of the conditions mentioned are not in dispute. Thus the only objection is with respect to the non-inclusion of the plot in the approved lay out. The petitioner is not at fault. She has in fact put up construction and residing in the plot allotted to her. Therefore, looking from any angle, the petitioner cannot be faulted. For the purpose of giving a sale deed by respondents 1 to 3, there is no mandate of getting the concurrence from the fourth respondent by the petitioner in the given circumstances. The fourth respondent has also not come before this Court to put forth its stand despite several opportunities. The petitioner, being a lady, was given the allotment in the year 1992. She has suffered sufficiently over the years. In fact, No Objection Certificate has been issued by respondents 1 to 3 in the year 1998. The contention that similarly placed persons got sale deeds executed by respondents 1 to 3 as seen from the document dated 19.02.2009 and 21.03.2009 is not denied or disputed.

6.For the reasons stated above, the writ petition stands allowed. Consequently, the fourth respondent is directed to give

consent to the plot allotted to the petitioner within a period of six weeks from the date of receipt of a copy of this order. After issuance of the said consent by the fourth respondent and production of the said consent by the petitioner, respondents 1 to 3 shall take necessary steps to execute the sale deed in favour of the petitioner, within a further period of eight weeks thereafter. No costs.

Sd/-
Assistant Registrar

//True Copy//

mmi Sub Assistant Registrar

To

1. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.
2. The Administrative Engineer,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.
3. The Assistant Secretary (Plots),
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 5.
4. The Member Secretary,
Chennai Metropolitan Development
Authority,
Thalamuthu Natarajan Maligai,
Gandhi Irwin Road, Egmore,
Chennai - 8.

+1cc to Mr.Tamil Mani, Advocate, S.R.No.15905
+1cc to Mr.Siva Mohan, Advocate, S.R.No.15461
+1cc to Mr.Kesavan, Advocate, S.R.No.15351

KJ(CO)
RS(24/03/2017)

W.P.No.33462 of 2016