



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

W.P (MD) No.6415 of 2014

and

M.P (MD) No.1 of 2014

D.Thamos

.. Petitioner

Vs.

The Executive Engineer cum Executive Officer,
Ramanathapuram Housing Board Division,
Ramanathapuram District.

.. Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the impugned letter No.A.L.2/T.58/92, dated 18.02.2014 passed by the respondent and quash the same and further direct the respondent to register the sale deed for the house property of the petitioner in D.58, Karaikudi, S.M.T. Phase-II, Karaikudi, Sivagangai District.

For Petitioner

: Mr.H.Mohamed Imran
for M/s.Ajmal Associates

For Respondent

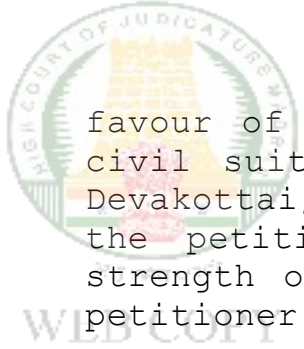
: Mr.R.Janardhanan

ORDER

This writ petition has been filed seeking a writ of Certiorarified Mandamus to quash the impugned letter No.A.L.2/T.58/92, dated 18.02.2014 issued by the respondent and direct the respondent to register the sale deed for the house property of the petitioner in D.58, Karaikudi, S.M.T. Phase-II, Karaikudi, Sivagangai District.

2.Heard both sides.

3.The case of the petitioner is that a housing flat at D.58, Karaikudi, S.M.T. Phase-II, Karaikudi, Sivagangai District, has been allotted in favour of the petitioner and he obtained loan from the State by mortgaging the said property and after paying the loan amount, the respondent refused to execute a sale deed in



favour of the petitioner on the ground that one Alamelu filed a civil suit in O.S.No.94 of 2011 on the file of the Sub Court, Devakottai, vide impugned order, dated 18.02.2014. According to the petitioner, the said Alamelu filed the said suit on the strength of a bogus unregistered sale agreement. Therefore, the petitioner is before this Court.

4.The learned counsel appearing for the respondent would submit that due to pendency of civil proceedings, the respondent has not executed the sale deed in favour of the petitioner.

5.It is an admitted fact that, by proceedings, dated 10.02.2000, a house flat came to be allotted in favour of the petitioner. According to the petitioner, he paid all the hire-purchase instalments. Subsequently, the petitioner approached the respondent for execution of sale deed and the same was denied on the ground that a civil suit came to be filed by a third party, claiming that he entered into an agreement of sale in respect of the same property, for which, no sale deed came to be executed by the respondent. For the said reason, the suit filed by the said Alamelu in O.S.No.94 of 2011 came to be dismissed. Thereafter, it is stated that an appeal is pending consideration. It is the claim of the petitioner that the suit itself was not maintainable, since no sale deed was executed by the respondent in favour of the petitioner, which itself is acceptable. If at all aggrieved, the third party can seek appropriate relief only after execution of the sale deed in favour of the petitioner.

6.On law, there cannot be any impediment for the respondent Housing Board, to execute a sale deed in favour of the petitioner, since the entire sale consideration by proper payment of instalments, had already been done. Under such circumstances, the impugned order deserves to be set aside and accordingly the same is set aside and the matter is remitted back to the respondent for execution of sale deed in favour of the petitioner and the said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

7.The writ petition is allowed on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar



To

The Executive Engineer cum Executive Officer,
Ramanathapuram Housing Board Division,
Ramanathapuram District.

+1cc to Mr.R.Janardhanan, Advocate Sr.No.84998

SMN

VB/KKR/SAR4/15/11/2017/3P/3C

**ORDER MADE IN
W.P(MD) No. 6415 of 2014
and
M.P(MD) No. 1 of 2014
31.10.2017**