

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28/03/2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P. No.9771 of 2017 &
W.M.P.Nos.10751 & 10752 of 2017

Tmt.S.Ranjitham

.. Petitioner

Vs.

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2. The Chief Executive Officer,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

.. 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 relevant to the order in Letter No.AL10/9512/1992, dated 25.10.2016 passed by the second respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the principles of natural justice and thereby direct the respondents to transfer the allotment and issue sale deed in the name of the petitioner in respect of the property situated in Block No.14/5, LIG (RBH) NH-1, Ponmudiyar Street, Maraimalai Nagar, Chengalpet Taluk, Kanchipuram District - 603 209 by receiving appropriate charges.

For Petitioner : Mr.A.Rajesh Kanna

For Respondents : Mr.N.Sampath
Standing Counsel

O R D E R

The petitioner has come up with the present Writ Petition for issuance of Writ of Certiorarified Mandamus to quash the order of the second respondent dated 25.10.2016 and direct the respondents to transfer the allotment and issue sale certificate

in favour of the petitioner.

2. According to the petitioner, the Chennai Metropolitan Development Authority formed a layout at Maraimalai Nagar and called for application from the general public for allotment of plots. The draw was held on 17.10.1985 and one Mrs.T.R.Gomathi was allotted a plot in Block No.14, Door No.5, LIG (RBH) NH-I in Ponnudiyar Street at Maraimalai Nagar. The tentative price of the housing unit land cost is Rs.45,000/- and a sum of Rs.435/- was fixed as monthly EMI for a period of 12 years.

3. The petitioner would state that due to her financial constraint, the allottee, Mrs.T.R.Gomathi sold out the above property to the petitioner and received the entire sale consideration. Since no sale deed was executed in favour of T.R.Gomathi, she executed a registered sale agreement to and in favour of the petitioner vide document No.1409 of 1992, dated 29.06.1992. It is further stated that from the date of sale agreement, the entire possession of the property was handed over to the petitioner and she has paid the remaining monthly installments to the second respondent. The possession and enjoyment was appreciated by the second respondent through his demand letter dated 03.07.1996, directing her to pay the arrears amount and transfer charges amount of Rs.75,039/-.

4. The petitioner claims that the entire amount demanded by the respondents was paid. The grievance of the petitioner is that despite request, the plot was not transferred in her name, whereas, the second respondent had transferred allotment from one Mr.A.R.Solaiyappan to and in favour of one Mani. The petitioner would allege that the second respondent through his letter dated 27.01.2011 demanded Rs.2,62,804/- as total arrears amount, which is contrary to the letter of the second respondent dated 15.12.1995. Hence, the order of rejection of the request of name transfer is illegal, arbitrary and against the principles of natural justice.

5. The first respondent has filed a counter denying the allegations made by the petitioner and contended that the sale agreement entered by the petitioner with Mrs.T.R.Gomathi is invalid as per Clause 11 of the allotment order and letting out of property to the third party is incorrect. The possession and enjoyment of allotted unit by the petitioner is invalid and unlawful. The name transfer of the property from the original allottee is entertained by CMDA only on receipt of the consent and request of the original allottee, but in this case, no such request and consent of the allottee was received.

6. In the additional counter, it is stated the original allottee Mrs.T.R.Gomathi has not approached the CMDA and also not given the consent letter to transfer the name in favour of the petitioner, hence, the rejection order dated 25.10.2016 is in order.

7. Heard Mr.A.Rajesh Kanna, learned counsel for the petitioner; Mr.N.Sampath, learned Standing Counsel for the respondents and perused the materials available on records.

8. In the case on hand, it is not in dispute that the property in question has been allotted in favour of one Mrs.T.R.Gomathi by an allotment letter dated 10.07.1987. It appears that the petitioner had purchased the property and a sale agreement was registered in favour of the petitioner on 29.06.1992. The ration card, voter I.D card and the communication from the second respondent would reveal that the petitioner has been in possession and enjoyment of the property for a long number of years.

9. Moreover, affidavit of Mrs.T.R.Gomathi dated 25.08.1985 annexed in the typed set shows that she has no objection for transfer of the property in favour of the petitioner. The second respondent sent a letter dated 15.12.1995 to the petitioner directing her to pay the arrears amount and transfer fee, totalling Rs.82,235/-. Thereafter, the petitioner has paid Rs.37,410/- on 11.12.1997. The order of name transfer from Mr.A.R.Solaiyappan to N.Mani is also annexed in the typed set, but the request of the petitioner was rejected on the only ground that no request came from the original allottee Mrs.T.R.Gomathi and the third party can claim transfer of allotment.

10. Indisputably, the original allottee Mrs.T.R.Gomathi has not made any claim against the petitioner and the affidavit enclosed in the typed set shows that she has no interest in the property and she will not object the transfer of allotment in favour of the petitioner, but the second respondent, without considering these aspects and without providing an opportunity of hearing to the petitioner has rejected the name transfer application.

11. In my considered opinion, the respondents should have afforded an opportunity of personal hearing before passing the impugned order. Since the order is assailed mainly on the ground

of violation of principles of natural justice, the petitioner is entitled to succeed in this Writ Petition.

12. Accordingly, the Writ Petition is allowed and the order of the second respondent is set aside and the matter is remanded to the second respondent, who shall pass orders afresh in accordance with law after providing an opportunity of personal hearing to the petitioner. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

r n s
To

1. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2. The Chief Executive Officer,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1 CC to Mr.A. Rajesh Kanna, Advocate sr 23266

+1 CC to Mr.N. Sampath, Advocate sr 23804.

सत्यमेव जयते

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SP(11/06/2018)

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