

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.3746 of 2015
and M.P.No.1 of 2015

M.Lakshmi Ammal (died)

N.Indrani,
W/o S.Narayanan

P2 substituted as LRs of deceased
P1-M.Lakshmi Ammal as per
order dated 28.07.2017 by MDJ in
W.M.P.No.14096/2017 in W.P.3746/2015 Petitioner

Vs.

1. The Chairman,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 35.

2. The Executive Engineer,
Site and Service,
Anna Nagar Division,
Thirumangalam,
Chennai - 101.

3. The Manager,
Marketing and Service,
Special Division IV,
Tamil Nadu Housing Board,
Anna Nagar East,
Chennai - 102.

4. V.A.Joy Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 29.01.2015 in proceedings Letter No.A.No.Aa.II.3/5579-A/1999 on the file of the 2nd respondent and quash the same and consequently direct the respondents 1 and 2 to allot the extent of 2340 sq.ft. Being Plot No.R.36 Part to petitioner.

For Petitioner : Mr.G.Justin

For Respondents : Mr.V.Anandamurthy,
Standing Counsel for R1 and R3
No appearance for R2
Mr.U.Venkatesan for R4.

O R D E R

The petitioner is aggrieved against the order dated 29.01.2015 issued by the 2nd respondent, wherein and whereby, the petitioner's request for allotment of the house site No.R36 (Part) measuring 2340 sq.ft. was rejected. Consequently, the petitioner seeks for a direction to the respondents 1 and 2 to allot the said property to the petitioner.

2. Heard the learned counsel for the petitioner, the learned Standing counsel appearing for the Tamil Nadu Housing Board and the learned counsel appearing for the 4th respondent.

3. Though the learned counsel for the petitioner vehemently contended that the petitioner, since died and substituted by her daughter namely, the 2nd petitioner, was in possession and enjoyment of the said property for long number of years and therefore, the rejection of her claim for allotment of the subject matter property is not justifiable, I am not inclined to accept the above contention for the simple reason that the very same petitioner has lost her battle in the civil suit up to the Supreme Court seeking for the very same relief.

4. The facts of those proceedings are as follows:

The first petitioner as the plaintiff has filed a suit in O.S.No.2163/1990 on the file of the VI Assistant Judge, City Civil Court, Chennai, for declaration of her title with respect to the same subject matter property and for permanent injunction restraining the defendants from in any way interfering with her peaceful possession and enjoyment of the suit property. In the said suit, the Tamil Nadu Housing Board, Madras, Metropolitan Development Authority and one V.A.Joy, who is the 4th respondent herein are the defendants. The said suit was decreed and the housing Board went on appeal in A.S.No.85/2003 before the Additional District Judge (Fast Track Court-II) Chennai. The First Appellate Court, by its judgment and decree dated 21.03.2012, allowed the appeal and set aside the judgment and decree passed by the trial Court. Challenging the judgment and decree passed by the First Appellate Court, the first petitioner herein filed Second Appeal in S.A.No.939/2012 on the file of this Court. The said Second Appeal was dismissed on 15.09.2014 thereby confirming the judgment and decree of the First Appellate Court. The petitioner herein went before the Apex

Court and challenged the judgment and decree passed by this Court in the above S.A.No.939/2012. The said SLP No.8690/2015 also was dismissed on 19.09.2016 by the Apex Court.

5. From the above stated facts, it is evident that the petitioner's claim for title to the property was already rejected by the Civil Court which was confirmed upto the Supreme Court. When such being the factual position, I do not think that the petitioner is entitled to any indulgence from this Court by way of the present writ petition, as I find that the resultant relief sought for in this writ petition challenging the impugned order is one and the same as sought for in the Civil Suit. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Chairman,
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Nandanam,
Chennai - 35.
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Thirumangalam,
Chennai - 101.
3. The Manager,
Marketing and Service,
Special Division IV,
Tamil Nadu Housing Board,
Anna Nagar East,
Chennai - 102.

+1 cc to M/s.G.Justin Advocate sr 17272
+1 cc to M/sV.Anandhamurthy Advocate sr 17675
+1 cc to M/s.U.Venkatesan Advocate sr 17362

W.P.No.3746 of 2015

aa20/03/2018