

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.10.2018
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.25364 of 2017

S.Abaranji ... Petitioner

Vs

1.The Managing Director,
Slum Clearance Board,
Chennai-5.

2.The Executive Engineer,
Division II,
Tamil Nadu Slum Clearance Board,
Chennai.

3.The Executive Officer No.7,
Tamil Nadu Slum Clearance Board,
Chennai-78. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent relating to the order in Na.Ka.No.E7/14264/2015 dated 18.08.2017, to quash the same and to issue consequential direction to the first respondent to execute the sale deed in favour of the petitioner in respect of Plot No.315 in Velacherry, Lakshmipuram Plan area forthwith.

For Petitioner : Mrs.K.Parimala
For Respondents : Mr.R.Sivakumar

ORDER

The prayer made in this writ petition is to direct the first respondent to quash the order in Na.Ka.No.E7/14264/2015 dated 18.08.2017 and consequentially, direct the first respondent to execute the sale deed in favour of the petitioner in respect of Plot No.315 in Velacherry, Lakshmipuram Plan area, forthwith.

2.It is the case of the petitioner that the first respondent, vide order dated 19.05.1991, allotted a plot bearing No.315, admeasuring 1.26 sq.meter under the Tamil Nadu Sub Urban Development Scheme to the petitioner, for total consideration of Rs.17,640/- on installment basis. The petitioner paid the entire sale consideration on 27.03.2015. However, the first respondent did not come forward to execute the sale deed in favour of the petitioner. Hence, the petitioner submitted a representation dated 09.08.2014 to the first respondent in this regard, but the said representation was rejected, by order dated 18.08.2017, on the ground that she was not residing in the said plot and she executed a

power of attorney dated 06.08.2015 in favour of one Selvi. Aggrieved against the said order, the petitioner is before this Court.

3.Upon notice, the respondents filed a detailed counter affidavit, inter alia, stating that the petitioner has executed a registered power of attorney in respect of Plot No.315, in favour of one Selvi W/o.Sigamani on 06.08.2015, which is in violation of the Rules 8, 13, 14 and 16 of the lease-cum-sale agreement executed by her in favour of the Tamil Nadu Slum Clearance Board, Chennai and she was not residing in the said plot at the time of inspection and hence, the claim of the petitioner seeking execution of the sale deed, was rejected by the first respondent, by the order impugned herein.

4.Today, when the matter is taken up for consideration, the learned counsel for the petitioner, on instructions, submitted that during the pendency of this writ petition, the power of attorney deed dated 06.08.2015 executed by the petitioner in favour of the aforesaid Selvi, was cancelled, vide deed of cancellation of power of attorney dated 18.12.2017. Thus, according to the learned counsel, in view of the cancellation of power of attorney deed executed by the petitioner, the first respondent may be directed to re-consider the claim of the petitioner seeking execution of sale deed in her favour, for which, the learned counsel appearing for the respondents has no serious objection. According to him, the first respondent would consider the petitioner's claim afresh, in the light of the subsequent deed of cancellation of power of attorney dated 18.12.2017.

5.Recording the submissions so made by the learned counsel on either side, this writ petition stands allowed by setting aside the order dated 18.08.2017 passed by the first respondent. The matter is remanded back to the first respondent for passing a fresh order. The petitioner shall produce all the required documents, including the original deed of cancellation of power of attorney dated 18.12.2017, if not already produced, to the first respondent, within a period of two weeks from the date of receipt of a copy of this order. On such production, the first respondent shall consider the same and pass appropriate orders, with regard to the execution of the sale deed in favour of the petitioner, on merits and in accordance with law, after affording an opportunity of personal hearing to all the parties, within a period of six weeks thereafter. No costs.

09.10.2018

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Index: Yes/ No

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R.MAHADEVAN, J.

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