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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.07.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. No. 2555 of 2019

N.M.Selvaraj

... Petitioner

Vs.

1.The Executive Engineer and Administrative Officer
Erode Housing Unit
Tamil Nadu Housing Board
Surampatti Nall Road
Erode 638 009.

2.The District Registrar (Administration)
O/o. The District Registrar
Sennimalai Road
Rangampalayam
Erode 638 009.

3.The Sub-Registrar
O/o.The Sub-Registrar
Erode 638 009.

... Respondents

Prayer:- Writ petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records connected with the impugned communication in Na. Ka. No. 6020/A2/2018 dated 28.11.2018 issued by the Second Respondent and quash the same and consequently direct the Second and Third Respondents to cancel the Sale Deed bearing Doc.No.4483 of 2016 dated 12.07.2016 registered by way of impersonation and forgery at the Office of the Third Respondent.

For Petitioner : Mr. K.Thilageswaran
For Respondents: Mr. R.Bharathkumar for R1
: Mr. T.M.Pappiah for R2 & R3
Special Government Pleader

O R D E R

Heard Mr. K. Thilageswaran, Learned Counsel for the Petitioner, Mr. R. Bharath Kumar, Learned Standing Counsel appearing for the First Respondent and Mr. T.M. Pappiah, Learned Special Government Pleader appearing for the Second and Third Respondents, and perused the materials placed on record, apart



from the pleadings of the parties.

2. The Petitioner was allotted a house by the Tamil Nadu Housing Board of an extent of 2325 sq. ft. bearing Door. No. H-330 in Muthampalayam Extension-I, Erode on 15.10.1998, and had paid a sum of Rs. 5,95,898/- towards the tentative cost of Rs. 5,75,050/- that has been fixed along with interest on 17.12.1999. However, as proceeding for enhancement of compensation in land acquisition had not attained finality, the Tamil Nadu Housing Board was not able to fix final cost and intimate the same to the allottees including the Petitioner. It is complained by the Petitioner that certain persons impersonating themselves as officials of the Tamil Nadu Housing Board falsely represented that a further sum of Rs. 1,70,000/- was payable towards remaining sum of final cost and on collecting the same from the Petitioner, had executed the Sale-Deed dated 12.07.2016 forging the signature of the authorized signatory of the Tamil Nadu Housing Board registered as Document No. 4483 of 2016 in the office of the Sub Registrar, Erode. On coming to know of that illegal act later, the Petitioner had paid another sum of Rs. 8,75,200/- towards final cost as required by the Tamil Nadu Housing Board, whose authorized signatory thereafter executed another Sale-Deed dated 10.05.2018 in favour of the Petitioner, which has been registered as Document No. 2888 of 2018 in the office of the Sub-Registrar, Erode.

3. In that backdrop, the Petitioner had made separate representations dated 07.11.2018 and 20.11.2018 to the First and Second Respondents respectively for cancellation of the forged Sale-Deed dated 12.07.2016 that had been registered as Document No. 4483 of 2016 in the office of the Third Respondent. The Second Respondent by a letter dated 28.11.2018 informed the Petitioner that in view of the decision of Hon'ble Supreme Court of India in Satya Pal Anand -vs- State of Madhya Pradesh [(2016) 10 SCC 767], it would not be possible to cancel the registered sale deed and that the Petitioner may seek redressal from the jurisdictional Civil Court for necessary relief in that regard. Aggrieved thereby, the Petitioner has challenged the letter in Na. Ka. No. 6020/A2/2018 dated 28.11.2018 sent by the Second Respondent and quash the same and has sought for consequential direction to the Second and Third Respondents to cancel the Sale-Deed bearing Document No. 4482 of 2016 dated 12.07.2016 registered at the office of the Third Respondent as it had been executed by way of impersonation and forgery, which is void.

4. In this context, before proceeding further, it would be necessary extract Rule 118 of the Registration Rules, as follows:-



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"118. If a registered document is declared by a Court to be a forgery or to have been registered under admission made by a person who falsely personated the executant, a note calling attention to the fact shall be entered at the foot of the entry in the register and when practicable on the document."

On a perusal of the aforesaid legal provision, it is evident that if a registered document is declared to have been registered under admission made by a person, who falsely impersonated the executant, a note of that fact shall be entered at the foot of the entry in the register and when practicable on the document.

5. In such circumstances, if the authorised signatory of the Tamil Nadu Housing Board, confirms in writing before the Third Respondent that his signature has been forged by impersonation in the Sale-Deed dated 12.07.2016 registered as Document No. 4483 of 2016 in the office of the Third Respondent, it is incumbent upon the Third Respondent to take cognizance of the same and record the said fact by making necessary entries to that effect in the concerned registers and on that document.

6. If the authorised signatory of the Tamil Nadu Housing Board fails or refuses to confirm the forgery of his signature by impersonation in the document dated 12.07.2016 registered as Document No. 4483 of 2016 in the office of the Third Respondent, it is open to the Petitioner to institute a suit in the jurisdictional civil court invoking Section 31(1) of the Special Relief Act for necessary relief in that regard and if a decree for cancellation of that document is granted, the Third Respondent on receipt of a copy of such decree from the Civil Court shall make necessary entry in that regard in terms of Section 31(2) of the Specific Relief Act, 1963, read with Rule 118 of the Registration Rules.

7. Accordingly, the Writ Petition is disposed on the aforesaid terms. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

dna/vjt



To

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+lcc to Mr.R.Bharath Kumar, Advocate, S.R.No. 62167

W.P. No. 2555 of 2019

SV(CO)
GN(09/01/2020)