

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.17432 and 17433 of 2010
and
M.P.No.1,1 of 2010

1. Mrs. R.Jayanthi (deceased)
2. B.D.Ramesh Babu
3. B.R.Venkhat Balaji ...Petitioner in W.P.No.17432 of 2009
1. B.D.Ramesh Babu ...Petitioner in W.P.No.17433 of 2009

(P2 & P3 substituted as LR's of the
deceased P1 vide court order dated
10.12.18 made in WMP.24487/18, in
WP.17432/10 by RMDJ)

.Vs.

1. The Deputy Registrar of Co-operative
Society (Housing) Chennai Region,
Chennai - 17.
2. The Special Officer,
The Simpson Co-operative Building Society Ltd.,
Regd No.X 391,
No.89 C.P.Adhithanar Salai,
Chennai - 2.
3. The Secretary
The Simpson Co-operative Building Society Ltd.,
Regd No.X 391,
No.89 C.P.Adhithanar Salai,
Chennai - 2.
4. Smt. S. Tharabai Respondents in both W.Ps

COMMON PRAYER:- Petition filed under Article 226 of the
Constitution of India for issuance of a writ of Certiorari
calling for the entire records pertaining to the impugned
proceedings in case No.163/2008 in order dated 20.11.2009 passed
by the 1st respondent herein and the consequential notice of the
second respondent dated 21.01.2010 and quash the same.

For Petitioners : M/s.V. Srikanth
in each of the petitions

For Respondent-1 : Mr. T. Girija
(Government Advocate)

For Respondents
2 and 3 : L.P.Shanmugasundaram
(Special Government Pleader)

COMMON ORDER

The petitioners have filed these writ petitions for issuance of a writ of Certiorari calling for the entire records pertaining to the impugned proceedings in case No.163/2008 in order dated 20.11.2009 passed by the 1st respondent herein and the consequential notice of the second respondent dated 21.01.2010 and quash the same.

2.W.P.No.17432 of 2010 was filed by one R.Jayanthi, consequent to her death, her legal representatives were impleaded as petitioners in W.P.No.17432 of 2010. W.P.No.17433 has been filed by B. D. Ramesh Babu/husband of R.Jayanthi.

3.The second respondent herein announced the scheme namely, Thalambur Housing Layout, in the year 2005 at Chengalpet Taluk, Kanchipuram District and offered housing plots for sale and the couple applied for allotment of five plots each bearing plot nos.470 to 474 in W.P.No.17432 of 2010 and 488 to 492 in W.P.No.17433 of 2010 under the said scheme. The second respondent accepted the payment made by the petitioners and executed sale deeds in favour of the petitioners on 17.03.2006 and the said sale deeds were registered at Sub Registrar Office, Thiruporur, Kanchipuram District and the petitioners are in possession of the plots from the year 2006.

4.While so, the second respondent sent a letter dated 21.01.2010 threatening to cancel the allotment of plots allotted in the year 2006 by referring to proceedings dated 20.11.2009 passed by the 1st respondent/Deputy Registrar of Co-operative Society, at the instance of the 4th respondent herein. The 2nd respondent sought to cancel the sale deeds citing clause 46 (1) (C) of the amended Bye-laws of the Society. Aggrieved over the said order the petitioners are before this Court.

5.Mr.V. Srikanth, learned counsel for the petitioners would submit that the said Bye-laws was amended on 22.02.2007, whereas, the plots were allotted in favour of the petitioners in the year 2006, based on the bye laws prevailing at that point of time. Therefore, the amended bye-laws are not applicable to the petitioners.

6.Mr.L.P.Shanmuga Sundaram, learned counsel for respondents 2 and 3 produced a letter dated 20.03.2019, wherein it is stated that the 4th respondent was allotted plot under the said scheme and she has no grievance against the petitioners now.

7.Considering the facts and circumstances of this case, more particularly the fact that the R2 is relying on the amended bye laws which came into force in the year 2007, while the petitioner had purchased the plots in the year 2006, as per the then existing bye-laws, and that the R4 has also been allotted a plot under the scheme and she has no grievance as on date, this Court is inclined to set aside the impugned order dated 21.01.2010.

Accordingly, these writ petitions are allowed. No costs. Consequently connected miscellaneous petitions are closed.

smn

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Registrar of Co-operative Society(Housing) Chennai Region, Chennai - 17.
2. The Special Officer,
The Simpson Co-operative Building Society Ltd.,
Regd No.X 391,
No.89 C.P.Adhithanar Salai,Chennai - 2.
3. The Secretary
The Simpson Co-operative Building Society Ltd.,
Regd No.X 391,
No.89 C.P.Adhithanar Salai, Chennai - 2.

+1cc to the Govt.Pleader, Vide Sr.No.64194
+1cc to Mr.L.P.Shanmugasundaram, Advocate, SR.No.64160
+1cc to Mr.V.Srikanth, Advocate, SR.No.64023

W.P.Nos.17432 and 17433 of 2010
and

M.P.No.1,1 of 2010

Kak(20/09/2019)