

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :27.11.2019

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.10579 of 2018

V.Mani

.. Petitioner

Vs.

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

2.The Estate Officer,
Estate Office-3,
Tamil Nadu Slum Clearance Board,
Thirumangalam,
Chennai-40.

3.Sundarambal

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the records culminating in the impugned proceedings in Na.Ka.No.E3/14756/2017, dated 12.01.2018 of the 1st respondent and quash the same and consequently, direct the 1st and 2nd respondents to execute sale deed in respect of the Plot No.22, Door No.22, measuring 86.0 sq.ft in Collector Nagar (Padi) Scheme bearing presently Old No.34, New Door No.22, 1st Street, Collector Nagar, Chennai 101 within a time frame.

For Petitioner :Mr.Y.Bhuvaneshkumar

For Respondents :Mr.S.Prabhu

Standing Counsel for R1 and R2

Mr.A.Muniraja for R3

ORDER

This writ petition has been filed seeking Writ of Certiorarified Mandamus to call for the records culminating in the impugned proceedings in Na.Ka.No.E3/14756/2017, dated 12.01.2018 of the 1st respondent and quash the same and consequently, direct the 1st and 2nd respondents to execute sale deed in respect of the Plot No.22, Door No.22, measuring 86.0 sq.ft in Collector Nagar(Padi) Scheme bearing presently Old No.34, New Door No.22, 1st Street, Collector Nagar, Chennai 101 within a time frame.

2.The petitioner herein is an allottee of Plot No.22 measuring 86.0 sq.ft in Collector Nagar(Padi) Scheme by the Tamil Nadu Slum Clearance Board. He has paid the full cost for the Plot No.22 as early as 24.03.1998. He is entitled to get the sale deed in his name having paid the entire cost of the Plot. However, the first respondent has issued the impugned order stating that if the allotment is made in favour of the husband, then the sale deed will be executed in favour of both the husband and the wife and not individually in the name of the husband.

3.As far as the petitioner is concerned, he was married to the third respondent in the year 1975, but got separated and his wife/ the third respondent herein is living separately and she has also been allotted a plot No.21 by the Slum Clearance Board in the very same Scheme. She has been given sale deed by the first respondent on 15.02.2018. Whereas the petitioner is deprived of the sale deed citing a circular dated 22.11.2004, which is discriminative and not applicable to the petitioner. Hence, the petitioner is before this Court seeking Certiorarified Mandamus to quash the proceedings of the first respondent dated 12.01.2018 and direct him to execute the sale deed in favour of the petitioner in respect of the Plot No.22, Door No.22, measuring 86.0 sq.ft in Collector Nagar(padi) Scheme.

4.The learned standing counsel appearing for respondents 1 and 2 has filed counter-affidavit wherein it is stated that the allotment of the above said plot to the petitioner and the payment of the entire sale consideration are admitted. Whereas, in defence of the impugned order it is stated that the subject matter of the writ petition area comes under the scheme of Collector Nagar and the petitioner was allotted the plot No.22, and his wife was allotted the Plot No.21 in the same scheme and the Board has issued a sale deed in her favour. Pursuant to the circular issued by the Housing and Urban Development Department in letter No.60328/K/1/90 dated 14.05.1991 directing the Slum Clearance Board to include the spouse name while issuing Allotment order as well as Execution of Sale deed. The Slum Clearance Board insit for joint execution of sale deed.

5.In the present case, the third respondent, wife has been already issued sale deed in her favour separately for the Plot No.21. Hence, the Estate Officer has recommended to issue sale deed in the petitioner name alone. But, due to the circular issued by the Housing and Urban Development Department, the Board has refused to issue sale deed in the petitioner name alone. Only in the cases of husband and wife were legally divorced, the issuance of sale deed in the name of individual would be considered. Hence, the petitioner request was turned down by the Board.

6. From the pleadings, this Court finds that the Housing and Urban Development Department has issued the circular dated 14.05.1991 to include the wife name whenever the sale deed is executed to the allottee, who is the married man. But, an identical Clause or direction is not incorporated in the said circular, if the allottee is a married woman.

7. In this case, though the petitioner is married to the third respondent, they are not living together and the third respondent/wife, who is living in Plot No.21, has already been allotted a plot and the sale deed also executed, without incorporating the name of the petitioner. Whiles, the petitioner cannot be forced to get the sale deed jointly in his name and his wife name.

8. Taking note of the peculiar facts and circumstances of the case, the first respondent is directed to execute the sale deed exclusively in the name of the petitioner herein, without including the name of the third respondent, if he is otherwise eligible, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

9. With the above direction, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

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

2. The Estate Officer,
Estate Office-3,
Tamil Nadu Slum Clearance Board,
Thirumangalam, Chennai-40.

+1 cc to M/s.Y.Bhuvanesh Kumar, Advocate Sr.No. 98686

+1 cc to M/s.S.Prabhu, Advocate Sr.No.98987

AKM/16.12.19/3P-5C /

W.P.No.10579 of 2018