

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	29/08/2019
Delivered on	25/09/2019

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.Nos.10926, 10927, 11393 & 12236 of 2014

D.Maria Anthonyammal

...Petitioner in
W.P.No.10926 of 2014

S.Devadoss

...Petitioner in
W.P.No.10927 of 2014

A.Onramu

...Petitioner in
W.P.No.11393 of 2014

V.Manomani

...Petitioner in
W.P.No.12236 of 2014

Vs

1.The Chairman and
Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

2.The Executive Officer and
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai - 625 010.

..Respondents

Prayer in all Writ Petitions:- These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to execute the sale deed in favour of the petitioners in respect of the Flats T-169, T-167, T-166, T-171 Ellis Nagar, Madurai.

For Petitioner in
all W.Ps' : Mr.M.Sriram

For Respondents in
all W.Ps' : Mr.R.Bharath Kumar
Standing Counsel for TNHB

C O M M O N O R D E R

These Writ Petitions have been filed for issuance of Writ of Mandamus, directing the respondents to execute sale deeds in favour of the petitioners in respect of flats in T.Nos.169, 167, 166 and 171 at Ellis Nagar, Madurai respectively.

2. Indisputably on 15.02.1986, 22.01.1987, 18.03.1987 and 21.07.1987, the second respondent issued allotment orders in respect of HIG flats in T.Nos.169, 167, 166 and 171 at Ellis Nagar, Madurai in favour of the petitioners, respectively. The tentative cost of each flat was worked out to Rs.1,19,000/- for an extent of 1500 sq.ft. As per the Scheme, a 20 feet road is to be provided on the eastern side of the flats in T.Nos.165 to 174 to ensure ingress and egress. Admittedly, constructions of the flats had completed in the year 1987 and they were handed over to the petitioners. Even then, the sale deeds were not executed and hence, they have come forward with these Writ Petitions.

3. Mr.M.Sriram, learned counsel for the petitioners submitted that despite the entire cost of the flats were paid by the petitioners as early as in the year 2008, but the sale deeds are not executed in their favour and hence, their title would not be perfected. It is further submitted that the respondents having received the entire cost of the land, are duty bound to execute sale deeds in favour of the petitioners. He further added that since the petitioners have not obtained sale deeds, the electricity service connection, water service connection and property tax could not be made in the name of the petitioners and hence, they are not in a position to enjoy the property, though they are the owners of the same.

4. Mr.R.Bharathkumar, learned Standing Counsel for the respondents by producing a letter of the Executive Engineer and Administrative Officer, Madurai Housing Board Unit, dated 26.08.2019, sent to one of the petitioners, submitted that the Board is ready and willing to execute sale deeds for the flats allotted in favour of the petitioners, provided, if they waive the request for 20 feet scheme road. It is further submitted that a similar Writ Petition filed by the Association before the Madurai Bench in W.P.(MD)No.649 of 2006, dated 24.01.2007, was rejected and it is binding on the writ petitioners also.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. It is seen that one Rakkappa Konar, whose lands are situated on the eastern side of the petitioners property, challenged the acquisition proceedings along with other owners

in a batch of Writ Petitions and this Court, by an order dated 07.04.1983 quashed the declaration made under section 6 of the Land Acquisition Act, 1894, leaving intact the notification issued under Section 4(1) and it is further stated that if the Government so desires, it is open to the Government to proceed from the stage of notification under Section 4(1) of the Act.

7. It is an admitted fact that no steps were taken to acquire the abutting lands to form 20 feet scheme road and for that reason, the respondents refused to execute sale deeds in favour of the petitioners. When the petitioners insisted for execution of sale deeds, the second respondent vide letter dated 26.11.2008, demanded a sum of Rs.2,03,175/- being the final cost of the flats and the amount was paid by the petitioners in time. Even then, the sale deeds were not executed.

8. In the instant cases, it is not disputed that the flats in dispute were allotted in favour of the petitioners in 1987. It is not equally disputed that entire cost of flats have been paid by the petitioners in the year 2008. It is to be noted that as per the Scheme, the respondent-Housing Board has to form 20 feet road on the eastern side of the twin type houses, but in view of quashment of the acquisition proceedings, the Board is not in a position to form the scheme road. The Tamil Nadu Housing Board, having collected the cost for the larger extent of land, handed over possession of a lesser extent to the petitioners.

9. It is relevant to note that if the acquisition proceedings are quashed on technical grounds, a duty is cast upon the respondent-Board to pursue the acquisition proceedings to ensure formation of the scheme road. But, unfortunately, due to the callous attitude of the respondents, the poor petitioners have been suffering more than 30 years. Even today, no steps have been taken by the respondents to acquire the land to provide 20 feet scheme road. However, on that ground, the petitioners cannot be denied their legitimate right to get sale deeds in their favour. Admittedly, under the Ellis Nagar Scheme, more than 1000 flats were constructed, but except for the twin type houses, the other flat owners were given sale deeds. Hence, I find force in the contentions of the learned counsel for the petitioners.

10. For the foregoing reasons, in my considered opinion, the petitioners are entitled to succeed in these Writ Petitions. Accordingly, all the Writ Petitions are allowed and a direction is issued to the respondents to execute sale deeds in favour of the petitioners for the flat in T.Nos.169, 167, 166 and 171 at Ellis Nagar, Madurai respectively, with the available road having width of about 9 feet, within a period of four weeks from

the date of receipt of a copy of this order. Liberty is granted to the petitioners to work out their remedy in separate proceeding for formation of 20 feet road as per the Scheme. There is no order as to costs.

r n s

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Chairman and
Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

2.The Executive Officer and
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai - 625 010.

+4ccs to Mr.M.Sriram, Advocate, SR.No.82651

+4ccs to Mr.R.Bharath Kumar, Advocate, SR.No.82869 to 82872

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& 12236 of 2014

Kak(31/10/2019)

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