

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2019

CORAM :

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.31736 of 2017

and

W.M.P.No.34881 of 2017

Dr.Kamalabai Sampooram,
W/o.Late Dr.N.Sampooram,
B-19, Golden Jubilee Apartments,
Anna Main Road,
K.K.Nagar, Chennai 78. ... Petitioner

Vs.

The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
K.K.Nagar, Division Shopping Complex,
Ashok Nagar, Chennai 83. ... Respondent

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent viz., the Executive Engineer & Administrative Officer, Tamil Nadu Housing Board, KK Nagar Division Shopping Complex, Ashok Nagar, Chennai 83 to execute the sale deed in respect of shop No.4 at Ashok Nagar Jawahar Vidyalaya, Chennai 83.

For Petitioner : Mr.B.S.Jothiraman
For Respondent : Mr.Bharath Kumar

O R D E R

The petitioner seeks a Mandamus directing the Executive Engineer & Administrative Officer, Tamil Nadu Housing Board to execute the sale deed in respect of shop No.4 at Ashok Nagar Jawahar Vidyalaya, Chennai 83 (shop in question).

2.Heard Mr.B.S.Jothiraman, learned counsel for the petitioner and Mr.Bharath Kumar, learned counsel for the respondent.

3.Admittedly, the petitioner has been allotted a shop in question at a cost of Rs.7,99,000/-. The petitioner has taken

possession of the shop in question on 15.04.1999, upon remittance of the entire costs, maintenance fund of Rs.20,000/- and water tax of Rs.1,000/-. Thereafter, the petitioner has been requesting the respondent to execute the sale deed, but the respondent has not taken any action with regard to the same. Hence, the present Writ Petition.

4.In counter, the respondent states that a suit has been filed by the Association formed in the complex in O.S.No.3046 of 2007, praying for permanent injunction restraining the respondent (the petitioner herein) to proceed with the construction of toilet as well as other allied works in the shop in question as well as cancellation of the permission given by the Board to effect such works in the premises as well as other prayers.

5.Having heard the learned counsel for the petitioner and respondent, I am of the view that the mandamus, as sought for by the petitioner, is liable to be issued. Mr.Bharath Kumar, learned counsel for the respondent, fairly admits that the entire consideration in respect of the shop in question has been received by the respondent. In such circumstances, there is no justification for the Housing Board to delay execution of the sale deed any longer. As far as the suit between the Association and the petitioner is concerned, the prayer sought for in the Suit is entirely unconnected to the present Writ Petition. Moreover, the suit appears to have been dismissed on 29.09.2009 and the appeal filed in CMP.No.748 of 2010 in AS.Sr.No.20235 of 2010 has also been dismissed. This is the sole reason set out by the respondent in defense. In the aforesaid circumstances, the respondent is directed to execute the sale deed within a period of six (6) weeks from the date of receipt of a copy of this order.

6.The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

sai

+1 CC to Mr.B.S.Jothiraman, Advocate sr 34303.

+1 CC to Mr.R.Bharath Kumar, Advocate sr 34518.

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VD(CO)

SP(14/05/2019)