



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.16308 of 2019

and

W.M.P. (MD)Nos.12961 and 12962 of 2019

and

W.M.P. (MD)No.9825 of 2020

K.R.Selvaraj

... Petitioner

Vs.

1.The Registrar of Co-operative Societies (Housing),
48, Rithatran Road,
Veppari, Chennai - 600 007.

2.The Regional Deputy Registrar (Housing),
Virudhunagar Region,
Virudhunagar District.

3.A-1321, Karaikudi Co-operative House Building Society,
Rep. by its President,
Karaikudi,
Sivagangai District.

4.D.Victor Sebastik Baskaran

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.5126/2015/Aa1, dated 29.07.2015 and quash the same.

For Petitioner : Mr.D.Sadiq Raja

For Respondents : Mr.M.Rajarajan,
Additional Govt. Pleader for R1 to R3
Mr.M.Vijayarathinam for R4

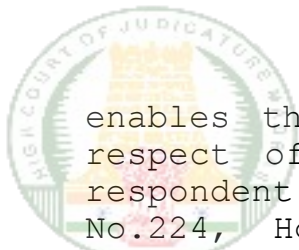
O R D E R

Heard the learned counsel appearing for the writ petitioner, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

2.The writ petitioner is a member of the third respondent/house building society. He questions the impugned order whereby the first respondent had exempted the transaction in question from the applicability of the communication R.C.No.1674/2008/C4 dated 21.12.2012.

3.The case of the writ petitioner is that the impugned order

<https://hcservices.ecourts.gov.in/hcservices/>



enables the third respondent/society to execute the sale deed in respect of the petition mentioned plot in favour of the fourth respondent in gross violation of the norms laid down in G.O.(Ms). No.224, Housing and Urban Development (HCS) Department, dated 27.11.2009. According to the petitioner, the said G.O. clearly states that the house building societies should thenceforth dispose of the unsold plots only after the market value is fixed by the pricing committee.

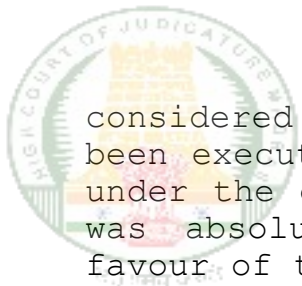
4.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition.

5.Though the learned counsel for the respondents would question the *locus standi* of the writ petition, the writ petition cannot be thrown out on the ground of maintainability. The writ petitioner is a member of the society in question. Therefore, he can very well question any decision that may adversely affect the interest of the society. Therefore, I overrule the objection raised by the learned counsel appearing for the respondents.

6.The learned counsel appearing for the respondents would also point out that the impugned order was passed way back on 29.07.2015 while the writ petition came to be filed only in July, 2019. The respondents therefore wanted me to reject the writ petition on the ground of laches. Again, I do not find any merit in this objection. I can understand if the copy of the impugned communication had been marked to the petitioner herein. When the petitioner herein had not been served with a copy of the impugned communication and the same is obviously not in the public domain, the petitioner cannot be faulted for having approached the Court belatedly.

7.Though in respect of preliminary objections, I found in favour of the petitioner, as far as the merits are concerned, I am of the view that the petition totally lacks merits.

8.It is seen that the plot in question was allotted in favour of the fourth respondent way back on 29.07.1984. It is also admitted by the learned counsel for the house building society that the entire sale consideration was paid up front in 1984 itself. I wanted to know as to why the sale deed was not immediately executed by the society. The answer is that only after all the allottees comply with the various formalities, all the sale deeds would be executed at one go. Therefore, the allottee appears to have missed the bus in this case for some reason or the other. In fact the learned counsel appearing for the fourth respondent would make serious allegations against the office bearers of the society and it is seen that vigilance complaints have also been lodged. Be that as it may, when the fourth respondent had paid the entire sale price 36 years ago and when the allotment was already issued in favour of the fourth respondent, obviously the plot in question cannot be



considered as an unsold plot. Merely because the sale deed has not been executed or registered, that will not put the plot in question under the category of unsold plot. Therefore, the first respondent was absolutely justified in granting the impugned exemption in favour of the fourth respondent.

WEB COPY

9. The interest of society has not been affected in any way. In fact the standing of the society has gone up because it has been made to honour its contractual obligations. A cooperative society having received the entire sale price from the allottee is duty bound to execute the sale deed. There is no justification for the gross delay on its part. Be that as it may, in view of the order passed by the first respondent, the third respondent/society can fulfill its contractual obligations. The petitioner is not justified in putting spokes in the wheel. I find no ground to interfere. The order impugned in the writ petition is sustained. The writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

ias

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Registrar of Co-operative Societies (Housing),
48, Rithatran Road, Veppari, Chennai - 600 007.

2. The Regional Deputy Registrar (Housing),
Virudhunagar Region, Virudhunagar District.

3. The President ,
A-1321, Karaikudi Co-operative House Building Society,
Karaikudi, Sivagangai District.

+1 CC to M/s.GP (SR-16670[F] dated 11/09/2020)

+1 CC to M/s.M.VIJAYA RATHINAM, Advocate (SR-16716[F] dated 14/09/2020)

+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-16750[F] dated 14/09/2020)

W.P. (MD)No.16308 of 2019

10.09.2020

AP(22/09/2020) 3P 7C

<https://hcservices.ecourts.gov.in/hcservices/>