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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.08.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH., J

W.P.NOS.1279, 1282, 1284 OF 2021

S.Muruganandham	.. Petitioner in WP No.1279 of 2021
S.Padmanabhan	.. Petitioner in WP No.1282 of 2021
P.Vignesh Prabhu	.. Petitioner in WP No.1284 of 2021

Vs

- 1 The Director
Handloom and Textiles Department ,
Office of the Director of Handlooms and Textiles,
2nd Floor, Kuralagam, Chennai 600 108
 - 2 The District Revenue officer,
Tirupur Division, Tirupur 641 604
 - 3 The Assistant Director,
Handloom and Textiles Department,
Office of the Assistant Director of Handlooms and Textiles,
12 Muthu Gowndanpudur, 3rd street,
Tirupur 641 604
 - 4 The President
The Tirupur Weavers Co-operative Production
And Sales Society Limited,
No. K 901 Door No.18,
Kumaran Road, Tirupur 641 601
- ... Respondents
in all WPs

Prayer in WP No.1279 of 2021:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the 1st respondent to execute a sale deed in petitioner's favour for the property that is in a joint nature in the southern side of petitioner house in Old Door No. 69 New No. 11 Nesavalar Colony 2nd street P.N. Road Tirupur 641 602 and also measuring the portion 3 5 cents in the land to an extent of 36 1/2 cents in S.F. No. 24/2 and No. 25B / 1B in Thottipalayam village Weaver Colony Tirupur in which petitioner in possession for a consideration of the guideline value by considering petitioner representation dated 27.11.2020.



Prayer in WP No.1282 of 2021:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the 1st respondent to execute a sale deed in petitioner favour for the property that is in a joint nature in the southern side of petitioner house in Old Door No. 70 New No. 9 Nesavalur Colony 2nd street P.N. Road Tirupur 641 602 and also measuring the portion 3.5 cents in the land to an extent of 36 1/2 cents in S.F. No. 24/2 and No. 25B / 1B in Thottipalayam village Weaver Colony Tirupur in which petitioner in possession for a consideration of the guideline value by considering petitioner representation dated 27.11.2020.

Prayer in WP No.1284 of 2021:

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus to direct the 1st respondent to execute a sale deed in petitioner favour for the property that is in a joint nature in the southern side of petitioner house in Old Door No. 71 New No. 5 Nesavalur Colony 2nd street P.N. Road Tirupur 641 602 and also measuring the portion 3.5 cents in the land to an extent of 36 1/2 cents in S.F. No. 24/2 and No. 25B / 1B in Thottipalayam village Weaver Colony Tirupur in which petitioner in possession for a consideration of the guideline value by considering petitioner representation dated 27.11.2020.

For Petitioners : Ms.Sasha
for Jana Govarthana Maheswaran
in all WPs

For Respondents : Mr.U.Bharanidharan
Government Advocate
for R1 to R3
in all WPS
Mr.L.P.Shanmugasundaram
for R4 in all WPS

O R D E R

The issue involved in all these writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2. The case of the petitioners is that they are owning certain properties, for which they have an access through a property belonging to the respondent society and which was used



for a long period of time. The petitioners requested the society to execute a sale deed in their favour with respect to the small portion of property measuring to an extent of 36.36 cents, which is the access to the property belonging to the petitioners. Since the request made by the Petitioners was not accepted and their right of pathway was put to challenge, the petitioners resorted to filing civil suit before the competent Civil Court. It is also an admitted case that the petitioners are the members of the respondent society.

3. A suit came to be filed in O.S.No.184 of 2010, seeking for a declaration of easement right to pathway and for a permanent injunction and as a alternative to declare that the petitioners have a presumption right to purchase the property from the respondent society and for a mandatory injunction to the society to execute and register a sale deed in favour of the petitioners. This suit was contested and the Additional Sub Court, Thirupur, by judgment and decree dated 30.09.2016, decreed the suit and the same was also confirmed in Appeal in A.S.No.11 of 2018 by a judgement and decree dated 28.04.2018 in A.S.No.11 of 2018. By virtue of this decree, the pre-emptive right of the petitioners to purchase the property was declared and the respondent society was directed to fix a sale price, based on the guideline value and to execute and register the sale deed.

4. The grievance of the petitioners is that the respondent society did not comply with the decree and the sale deed was not executed in favour of the petitioners and therefore, left with no other option, these writ petitions have been filed before this Court seeking for appropriate directions.

5. A common counter affidavit has been filed by the 4th respondent and the relevant portion in the counter affidavit is extracted hereunder :-

12. I respectfully submit that the 4th respondent is ready to execute the sale deed in favour of the petitioners in the light of the judgement and decree in O.S.No.182/2010, 183/2010 and 184/2010 and A.S.Nos.9/2018, 10/2018 and 11/2018. The Director of Handlooms /Functional Registrar of Co-operative societies issued the circular in R.C.No.9998/2017/C1 dated 27.11.2020, stating that any property will be sold to any members of society the market value of the property only to taken into consideration in execute the sale deed in favour of the members. In this regard, the 3rd respondent sent a letter written to 2nd respondent requesting market value of the said property vide letter dated 15.07.2020, 27.08.2020,



22.10.2020, 21.12.2020, 29.12.2020, the 2nd respondent after furnishing details of the said market value of the property. The 4th respondent is ready to execute the sale deed in favour of the petitioner.

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6. The learned Government Counsel appearing on behalf of the 1st respondent submitted that the 2nd respondent was already directed to determine the market value of the property and give a report in order to enable the society to sell the property as per decree passed by the Civil Court. The learned counsel submitted that once the rate is determined, the same has to be paid by the petitioners and the sale deed will be executed in their favour.

5. The learned counsel appearing on behalf of the 4th respondent submitted that the petitioners are the members of the society and when executing the sale deed in favour of the members, only the market value of the property will be taken into consideration and once the respondents 1 to 3 issue necessary directions, the sale deed will be executed after receiving the market value of the property.

6. In the considered view of this Court, the sale deed has to be executed by the 4th respondent by virtue of decree passed by the competent civil court. Therefore, the determination of the value of the property should be based on the decree. It is made clear in the decree passed by the Civil Court that the society will fix the sale price for the properties based on the guideline value. This decree has become final and the same is binding on the 4th respondent. Therefore, the 4th respondent has to necessarily execute the sale deed after receiving the guideline value of the properties. The 4th respondent cannot insist for the payment of the market value on the ground that there is a circular which mandates the sale of property to the members of the society only based on the market value. This circular will not have any application in the facts of the present case and the present case is governed by a decree passed by a competent civil Court and the 4th respondent will have to necessarily comply with the decree.

7. In view of the above discussion, there shall be a direction to the 4th respondent to inform the guideline value of the subject property to the petitioners, within a period of two weeks from the date of receipt of copy of this order. Immediately on receipt of the same, the petitioners shall remit the sale price and on the sale price being remitted, the 4th respondent shall execute the sale deed in favour of the petitioners, as per the decree passed in O.S.No.184 of 2010.



8. All these writ petitions are disposed of with the above directions.

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s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

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To

- 1 The Director
Handloom and Textiles Department ,
Office of the Director of Handlooms and Textiles,
2nd Floor, Kuralagam, Chennai 600 108
- 2 The District Revenue officer,
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- 3 The Assistant Director,
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Tirupur 641 604
- 4 The President
The Tirupur Weavers Co-operative Production
And Sales Society Limited,
No. K 901 Door No.18,
Kumaran Road, Tirupur 641 601

+3ccs to M/S.M.Guruprasad, Advocate, SR.No.39494
+1cc to Government Pleader, SR.No.39734

W.P.Nos.1279, 1282, 1284 of 2021

PMK(CO)
PM(06/09/2021)