



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.1571 of 2021

K.Jai Ganesh

...Petitioner

vs.

1. The Registrar of Cooperative Societies (Housing),
O/o. The Registrar Cooperative Societies (Housing),
Rethurden Road,
Veperry, Chennai-600 007.
 2. The Deputy Director of Cooperative Societies (Housing),
Chennai Region,
Ramanathan Salai, T.Nagar,
Chennai-17.
 3. The President,
Periyar Nagar Government Servant Cooperative House
Site Distribution Society Ltd.,
Thiruvalluvar Cooperative Thirumana Maaligai,
29, Karthikeyan Salai,
Periyar Nagar, Chennai-82.
- ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 3rd respondent herein to register the sale deed of Plot No.E-57, 15th Second Cross Street, Periyar Nagar, Chennai-82 in S.No.382/1 measuring 1012 Sq.Ft. in pursuance of the representation of the petitioner dated 29.12.2020 within the time frame.

For Petitioner : Mrs.R.T.Shyamala

For Respondents : Mr.A.Selvendran
Government Advocate for R1 and R2
Mr.L.P.Shanmugasundaram for R3

O R D E R

The case of the petitioner is that the subject matter of property viz., Plot No.E-57, 15th Second Cross Street, Periyar Nagar, Chennai-82 was originally allotted to one



Mr.S.Chockalingam, who was working as a Driver in the Board of Revenue, Chepauk, Chennai-5 and a lease cum sale agreement was entered on 18.01.1980. The said person has executed a registered sale deed in favour of petitioner's father on 04.06.1982, vide Doc.No.2724 of 1982 and thereafter, the petitioner's father died on 28.05.2007 and the petitioner became the absolute owner of the property. While that being so, the third respondent has sent a notice dated 22.09.2020 to the original allottee Mr.S.Chockalingam, stating that even after 39 years of allotment, the sale deed was not produced before the third respondent and if no proper explanation was given, the allotment will be cancelled. The petitioner, in this regard, made a representation dated 29.12.2020 to the respondents to execute the sale deed in favour of the petitioner. The contention of the petitioner is that he has been in possession of the property from the year 1982 and the respondent Society has to execute the sale deed in favour of the petitioner but they have not taken any steps and therefore, he has filed the present writ petition.

2. Mr.A.Selvendran, learned Government Advocate appearing for the respondents 1 and 2 would submit that as per Clause 10 (b) of the Allotment cum Sale agreement, the lessee/purchaser shall not sell or otherwise dispose of the said plot/building for a period of 5 years from the date of conveyance and the petitioner cannot agitate the issue in this writ petition under Article 226 of the Constitution of India and the remedy open to the petitioner is to file a petition under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983 and therefore, the present writ petition is not maintainable and prays for dismissal of this writ petition.

3. Mr.L.P.Shanmugasundaram, learned counsel appearing for the third respondent would submit that the present writ petition is not maintainable and the remedy open to the petitioner is to approach the proper forum and not before this Court under Article 226 of the Constitution of India.

4. It is not in dispute that the subject matter of property was originally allotted by the third respondent in favour of one Mr.Chockalingam and thereafter said plot was sold to petitioner's father and the petitioner became the owner of the property by way of succession. As rightly contended by the learned Standing Counsel for the respondents, the prayer sought for in the writ petition cannot be granted since there is an alternative remedy available under Section 90 of the Tamil Nadu Cooperative Societies Act.



5. In view of the above, this Writ Petition stands dismissed as not maintainable and it is for the petitioner to workout his remedy before the appropriate forum, if he is otherwise eligible. No costs.

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s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

Jvm

To

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+1 CC to The Government Pleader, Sr 29367.

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GPL(CO)
SP(15/07/2021)