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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA  
and  
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.No.2462 of 2010 and M.P. No.1 of 2010

Church of South India Trust Association  
rep. by its Secretary Rev.A.Rajavelu,  
Church of South India,  
Diocese of Vellore,  
No.1, Officers Line,  
Vellore-632 001.

...Appellant/Petitioner

-vs-

- 1.Registrar (Housing),  
Co-operative Housing Society,  
Chennai-600 020.
- 2.Deputy Registrar (Housing),  
Vellore - 632 006.
- 3.The Special Officer,  
CMCH Employees Co.op  
Housing Society,  
C/o.Deputy Registrar (Housing),  
15, West Main Road,  
Gandhi Nagar,  
Vellore-632 006.

4.A.Rajasekaran

...Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act against the order dated 08.06.2010 made in W.P. No.9848/2008 passed by the Hon'ble Justice Mr.K.Chandru.

Prayer in W.P.NO.9848/2008:

Writ petition is preferred under Article 226 of the Constitution of India praying for the issue a Writ of Certiorari to call for the records of the first respondent connected with Na.Ka.No.9672/2006/SF1 dated 10.10.2007 and to quash the same.

For Appellant : Mr.A.U.Ilango  
For Respondents: Mr.T.Arunkumar,



Government Advocate for R1 to R3  
Mr.P.Anbarasan for R4

JUDGMENT

(Judgment of this Court was delivered by T.RAJA,J.)

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Church of South India Trust Association rep. by its Secretary Rev.A.Rajavelu has come to this Court challenging the impugned order dated 08.06.2010 passed by this Court in W.P. No.9848 of 2008 wherein the learned Single Judge dismissing the writ petition, granted liberty to the appellant to move before the appropriate Civil Court to establish their title over the property.

2.It is the case of the appellant that the Special Officer, CMCH Employees Co-operative Housing Society/the third respondent herein purchased certain land in Survey Nos.434, 435, 436/1, 436/2, 437/1, 437/2, 459/1, 459/2 by way of Sale Deeds from the Vellore Christian Medical College for distribution among its members. The Society, after preparing the layout, developed the land and got approval from the Town Planning Authority and that the developed plots were allotted to the members. However, the layout provided for certain area has been reserved for schools, park and other such common purposes. Out of the common area, 62,175 sq.ft. was sold to the appellant association on 23.07.1981 for running the school for the benefit of the children of the nearby residences. In this regard, the third respondent granted an extent of 13,080 sq.ft. of land in Sathuvachari Village in Vellore Taluk to the appellant and the same was reduced in writing by Deed of Settlement dated 19.11.1999 between the appellant and the third respondent and that the appellant had taken possession of the property and spent a considerable amount on the building of the compound wall. While so, the fourth respondent raised dispute in ARC No.1 of 2005-06 under Section 90 of the Tamil Nadu Co-operative Societies Act 1983 before the Deputy Registrar/second respondent seeking an order to declare that the Settlement Deed dated 19.11.1999 is null and void. However, the second respondent, by order dated 18.08.2006 holding that the dispute cannot be brought under Section 90 of the Tamil Nadu Co-operative Societies Act 1983, dismissed the arbitration claim with liberty to the fourth respondent to seek remedy before the competent Civil Court. Aggrieved thereby, an appeal was filed by the third respondent before the Special Judge for Co-operative Cases cum District Judge, Vellore, who has dismissed the appeal preferred by the third respondent on 12.03.2007. Thereafter, when a revision petition was filed by the fourth respondent under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983, the Registrar of Co-operative Societies (Housing), the first respondent herein, accepting the case of the fourth respondent,



directed the Regional Deputy Registrar (Housing), Vellore to take necessary action to get back the 13,080 sq.ft. of land donated to the appellant. The said order was put to challenge before the learned Single Judge by the appellant. However, the learned Single Judge, going through the reasons given by the Registrar of Co-operative Societies (Housing), agreeing with the same, dismissed the writ petition. Aggrieved thereby, the present appeal has been filed by the appellant.

3. During the pendency of this matter, the fourth respondent has filed a detailed counter affidavit dated 30.01.2018. Learned counsel appearing for the fourth respondent, drawing our notice to paragraph 5 of the above counter, submitted that the third respondent Society, in the light of the order passed by the learned Single Judge, registered the Deed of Cancellation No.7429/2010 dated 13.07.2010 cancelling the Settlement Deed No.6196/2003 dated 19.11.1999 and that the Cancellation Deed has not been challenged by the appellant so far.

4. Learned counsel appearing for the appellant submitted that the appellant was unaware of the above said Cancellation Deed dated 13.07.2010 cancelling the Settlement Deed dated 19.11.1999. Learned counsel for the appellant further submitted that the Settlement Deed cannot be unilaterally cancelled and before cancellation of the Settlement Deed, no notice has been given to the appellant.

5. But we are not able to find any merit on the submission made by the learned counsel appearing for the appellant. Whether notice has been given or not, the competent authority alone can go into such details, if there is any challenge made by the appellant. Since the Original Settlement deed dated 19.11.1999 has been disputed, based on which, the present appeal was filed and during the pendency of this writ appeal, the very Settlement Deed dated 19.11.1999 has been cancelled, this Court has no other option except to dismiss this appeal. Accordingly, this writ appeal stands dismissed. It is for the appellant to work out his remedy in the manner known to law. Consequently, connected M.P. is closed. No costs.

s/d-  
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

vga



To

1.Registrar (Housing),  
Co-operative Housing Society,  
Chennai-600 020.

2.Deputy Registrar (Housing),  
Vellore - 632 006.

3.The Special Officer,  
CMCH Employees Co.op  
Housing Society,  
C/o.Deputy Registrar (Housing),  
15, West Main Road,  
Gandhi Nagar,  
Vellore-632 006.

+1 CC to Mr.P. Anbarasan, Advocate sr 41400.

+2 CCS Mr.A.U. Ilango, Advocate sr 41641, 41642.

+1 CC to The Government Pleader sr 41725.

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NMI (CO)  
SP(02/09/2021)