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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.7223 OF 2020

AND

W.M.P.NO.8645 OF 2020

K.K.Varathan

... Petitioner

Vs.

1. The Chairman
Tamil Nadu Housing Board
493, Anna Salai,
Nandanam,
Chennai - 600 035.

2. The Assistant Secretary (Allotment-I)
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam,
Chennai - 600 035.

3. The Executive Engineer and Administrative Officer,
Anna Nagar Division,
Tamil Nadu Housing Board,
Tirumangalam,
Chennai - 600 101.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent by his proceedings No.ANA.II.3/13134/1979 dated 24.01.2020 directing the petitioner to produce the documents mentioned in that letter to issue the sale deed in favour of the petitioner and quash the same as illegal and without jurisdiction and further to direct the third respondent to issue the pucca sale deed in favour of the petitioner herein in respect of property bearing Door No.48-B, Nesavalur Colony, MKB Nagar, Vyasarpadi, Chennai - 600 039, as the petitioner alone is entitled to get the sale deed in his favour in respect of the aforesaid property as per the Will dated 23.12.1985 executed by the petitioner's father late



Shri.K.S.Kothandaraman, the original allottee of the aforesaid property and as per the grant of Certificate of Letter of Administration annexed with Will dated 23.12.1985 in favour of the petitioner vide order dated 19.10.2016 in O.P.No.673/2009.

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For Petitioner : Mr.G.Nagarajan
For Respondents : Mr.R.Bharathkumar
Standing Counsel

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the 3rd respondent by his proceedings No.ANA.II.3/13134/1979 dated 24.01.2020 directing the petitioner to produce the documents mentioned in that letter to issue the sale deed in favour of the petitioner and quash the same as illegal and without jurisdiction and further to direct the third respondent to issue the pucca sale deed in favour of the petitioner herein in respect of property bearing Door No.48-B, Nesavalur Colony, MKB Nagar, Vyasarpadi, Chennai - 600 039, as the petitioner alone is entitled to get the sale deed in his favour in respect of the aforesaid property as per the Will dated 23.12.1985 executed by the petitioner's father late Shri.K.S.Kothandaraman, the original allottee of the aforesaid property and as per the grant of Certificate of Letter of Administration annexed with Will dated 23.12.1985 in favour of the petitioner vide order dated 19.10.2016 in O.P.No.673/2009.

2.The case of the petitioner is that the petitioner's father was allotted Door No.48-B, Nesavalur Colony, MKB Nagar, Vyasarpadi, Chennai - 600 039 by the Tamil Nadu Housing Board vide allotment letter dated 04.07.1979 and he was residing there till his death on 22.11.1992. During his lifetime, the petitioner's father executed a Will dated 23.12.1985, in which, he had bequeathed the aforesaid property in favour of the petitioner since the petitioner alone was staying along with his father and was taking care of him.

3.The further case of the petitioner is that the petitioner after his father's death filed O.P.No.673 of 2009 under Section 232 and 276 of the Indian Succession Act under Order XXV Rule 5 of O.S.Rules for grant of Letters of Administration before this Court and the same was converted into T.O.S.No.20 of 2010 and the said T.O.S. was allowed by this Court on 19.10.2016 and he was given the Certificate of Letters of Administration annexed with Will dated 23.12.1985. Thereafter, the petitioner made representation to the respondents seeking to issue sale deed in



his favour, however, the third respondent issued the impugned order. Hence, this writ petition.

4.The learned counsel appearing for the petitioner would submit that the petitioner's father was allotted Door No.48-B, Nesavalur Colony, MKB Nagar, Vyasarpadi, Chennai - 600 039 by the Tamil Nadu Housing Board vide allotment letter dated 04.07.1979 and during his lifetime, the petitioner's father executed a Will dated 23.12.1985, in which, he had bequeathed the aforesaid property in favour of the petitioner.

5.The learned counsel appearing for the petitioner would further submit that the petitioner after his father's death filed O.P.No.673 of 2009 for grant of Letters of Administration before this Court and the same was converted into T.O.S.No.20 of 2010 and the said T.O.S. was allowed by this Court on 19.10.2016 and he was given the Certificate of Letters of Administration annexed with Will dated 23.12.1985. Thereafter, the petitioner made representation to the respondents seeking to issue sale deed in his favour.

6.The learned counsel appearing for the petitioner would further submit that since the original Will was filed before this Court, the petitioner produced a certified copy of the Will and also executed deed of indemnity in favour of the second respondent on 30.11.2018 declaring that no appeal has been filed against the order of this Court made in T.O.S.No.20 of 2010, however, the third respondent has passed the impugned order directing the petitioner to produce the death certificate of the petitioner's father, legal heir certificate issued by the Local Regular Tahsildar, no objection certificate issued by the other legal heirs and application, which is not sustainable.

7.The learned Standing Counsel appearing for the respondents would submit that since this Court has granted Certificate of Letters of Administration annexed with Will dated 23.12.1985 in favour of the petitioner, this Court may issue direction to the petitioner to pay a sum of Rs.10,000/- as costs to the respondents for effecting paper publication before execution of sale deed in his favour.

8.The facts in the case is not in dispute. Admittedly, the petitioner's father was allotted Door No.48-B, Nesavalur Colony, MKB Nagar, Vyasarpadi, Chennai - 600 039, by the Tamil Nadu Housing Board vide allotment letter dated 04.07.1979 and he was residing there till his death on 22.11.1992. During his lifetime, the petitioner's father executed a Will dated 23.12.1985, in which, he had bequeathed the aforesaid property in favour of the petitioner since the petitioner alone was staying along with his father and was taking care of him.



9.The petitioner after his father's death filed O.P.No.673 of 2009 under Section 232 and 276 of the Indian Succession Act under Order XXV Rule 5 of O.S.Rules for grant of Letters of Administration before this Court and the same was converted into T.O.S.No.20 of 2010 and the said T.O.S. was allowed by this Court on 19.10.2016 and he was given the Certificate of Letters of Administration annexed with Will dated 23.12.1985. Thereafter, the petitioner made representation to the respondents seeking to issue sale deed in his favour.

10.This Court vide order dated 19.10.2016 has allowed T.O.S.No.20 of 2010 only after hearing all the legal heirs and has granted the Certificate of Letters of Administration annexed with Will dated 23.12.1985 in favour of the petitioner. Hence, this Court is inclined to set aside the impugned order.

11.Accordingly, the impugned order dated 24.01.2020 is set aside. The respondents are directed to execute sale deed in favour of the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

12.This writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman
Tamil Nadu Housing Board
493, Anna Salai,
Nandanam,
Chennai - 600 035.
2. The Assistant Secretary (Allotment-I)
Tamil Nadu Housing Board,
493, Anna Salai,
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Chennai - 600 035.



3. The Executive Engineer and Administrative Officer,
Anna Nagar Division,
Tamil Nadu Housing Board,
Tirumangalam,
Chennai - 600 101.

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+1cc to Mr.G.Nagarajan, Advocate, S.R.No.69079
+1cc to Mr.R.Bharathkumar*, Advocate, S.R.No.69133

W.P.No.7223 of 2020
And
W.M.P.No.8645 of 2020

PM(CO)
PM/24/01/2022