

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 10783 of 2021

V.Thillai Natarajan

...Petitioner

Vs.

1. State of Tamil Nadu
Rep. by Secretary
Housing & Urban Development Department
Fort St. George, Chennai - 9.

2. The Regional Deputy Registrar /Housing
No.5, Daniel Thomas Nagar
Near Old Housing Unit, Thanjavur.

3. The Secretary
Needamangalam Taluk Co-op. Housing
Society Ltd. (SAHSC 94)
No.35, Indra Nagar, Needamangalam
Thiruvavur District.

Office situated at
The Secretary, TNJHSG-2
Mannargudi All Co-operative Institution
Employees Co-operative Housing Society
No.40, Balakrishnan Nagar
Mannargudi Taluk
Thiruvavur District.

4. The President
Needamangalam Taluk Co-op. Housing
Society Ltd. (SAHSC 94)
Vaducachi Amman Kovil Street
Adthi Dravidar Street, Olimathi
Needamangalam 614 404.

5. The District Registrar /Administration
O/o. District Registrar
Nagapattinam.

...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the Respondents 1 to 4 to execute a sale deed in favour of the

Petitioner in respect of Plot No.13, Kamaraj Nagar, Needamangalam, owned by the Third Respondent society within a reasonable time.

For Petitioner : Mr. M.Muthappan
For Respondents : Mr. Bala Ramesh (For R1 to R5)
Special Government Pleader

O R D E R

This Writ Petition has been filed for a direction to the respondents 1 to 4 to execute a sale deed in favour of the petitioner in respect of Plot No.13, Kamaraj Nagar, Needamangalam, owned by the third respondent Society within a reasonable time.

2.According to the petitioner, he is a member of the third respondent Co-operative Society from 2009. The respondents 3 and 4 purchased a land and prepared a layout named 'Kamaraj Nagar' and sold it to the members of the Society. On application being made to the Society, the petitioner was allotted Plot No.13 admeasuring 2590 sq.ft. (survey no.43/2 of Needamangalam Village) in the said layout on payment of valuable sale consideration. Thereafter, he approached the respondents 3 and 4 for execution of a sale deed in respect of plot no.13, but they evaded to do so. Hence, he made several representations requesting them to execute a sale deed and the same were also not considered, which compelled the petitioner to submit a representation to the respondents 2 and 3 on 04.12.2017. However, the same was kept pending without any action. Finding no other option, he filed WP.No.168 of 2018, which by order dated 05.01.2018, was disposed of, directing the third respondent to consider the petitioner's representation dated 04.12.2017 and pass orders, on merits and in accordance with law, within a period of eight weeks. Even thereafter, no action was taken, which forced the petitioner to initiate contempt petition bearing no.2022 of 2019.

3.It is the further case of the petitioner that during the hearing of the contempt petition, it was informed that the former Secretary and staff of the third respondent society have involved in the allegation of misappropriation of funds during the year 2015 and hence, the Deputy Registrar of Co-operative Society, by his letter dated 10.04.2019, has ordered enquiry as per Section 81 of the Tamil Nadu Co-operative Societies Act, in connection with the proceedings initiated for the alleged loss of Rs.36.20 lakhs, which includes the amount of Rs.8.85 lakhs paid by the petitioner and a criminal case was registered in Crime No.4/2017 in this regard, as a result of

which, all the documents and records of the society has been seized by the enquiry officer. Further, the President of the society filed a reply dated 04.03.2021, the relevant passage of which reads as follows:-

"I assumed Office of the Honorary President of the society on 11.08.2018. To consider the request of the petitioner, Mr.Thillai Natarajan the Board Meeting has been convened on 29.04.2019 in which it has been resolved and requested the Deputy Registrar to issue necessary guidelines for the disposal of his request. On receipt of the guidelines and on receipt of the documents from the statutory authorities, the request of Mr.Thillai Natarajan will be considered in accordance with law."

Recording the same, by order dated 08.03.2021, the contempt petition was closed. As no order is forthcoming from the respondents, the petitioner is before this Court with the present writ petition for the aforesaid relief.

4.The learned counsel for the petitioner submitted that the petitioner already paid the entire sale consideration in respect of plot no.13 and the same was also duly credited to the account of the third respondent Society and therefore, a legal duty is cast on the authority concerned to execute a sale deed in favour of the petitioner. The learned counsel further submitted that the petitioner is in no way connected with the enquiry said to have been initiated against the former Secretary and staff of the Society in respect of the alleged misappropriation of funds and hence, there is no justification on the part of the respondent authorities to keep the execution of the sale deed in his favour as pending. The learned counsel ultimately prayed that the second respondent is the appropriate authority with whom the records have been entrusted for the purpose of Section 81 enquiry and hence, he may be directed to issue necessary direction to the respondents 3 and 4 to execute the sale deed in favour of the petitioner.

5.Heard the learned Special Government Pleader appearing for the respondents, who submitted that there was misappropriation of funds belonging to the society by the erstwhile Secretary and staff, due to which, enquiry proceedings was initiated as per the provisions of the Tamil Nadu Co-operative Societies Act; and the documents and records are in the custody of the Deputy Registrar; and hence, the claim of the petitioner will be considered, after completion of section 81 enquiry.

6.This Court also perused the documents enclosed in the typed set of papers.

7.It appears that the petitioner was allotted Plot No.13 on payment of entire sale consideration of Rs.8.85 lakhs and the amount so paid was also credited to the account of the society, but the sale deed was not executed in his favour. It was the representation of the respondents before this Court in the earlier petition taken out by the petitioner that the erstwhile Secretary and staff of the Society alleged to have misappropriated the funds, including the sale consideration made by the petitioner and action was taken to enquire into the matter, due to which, the records and documents are under the custody of the Deputy Registrar of Co-operative Societies and hence, the claim of the petitioner will be considered, after obtaining necessary guidelines from the Deputy Registrar. Since the petitioner is admittedly a third party to section 81 enquiry proceedings and the third respondent is awaiting orders from the second respondent from 29.04.2019, this Court finds it appropriate to direct the second respondent, with whom the records and documents have been entrusted, to give proper instructions to the authority concerned with regard to the claim of the petitioner.

8.Accordingly, this writ petition stands disposed of, directing the second respondent to verify the records with respect to the sale consideration paid by the petitioner and issue necessary direction to the authority concerned in respect of the claim of the petitioner. Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Maya

To

1. The Secretary, Housing & Urban Development Department
Fort St. George, Chennai - 9.
2. The Regional Deputy Registrar /Housing
No.5, Daniel Thomas Nagar
Near Old Housing Unit, Thanjavur.

3. The Secretary
Needamangalam Taluk Co-op. Housing
Society Ltd. (SAHSC 94)
No.35, Indra Nagar, Needamangalam
Thiruvavarur District.
Office situated at The Secretary, TNJHSG-2
Mannargudi All Co-operative Institution
Employees Co-operative Housing Society
No.40, Balakrishnan Nagar
Mannargudi Taluk, Thiruvavarur District.
4. The President
Needamangalam Taluk Co-op. Housing
Society Ltd. (SAHSC 94)
Vaducachi Amman Kovil Street
Adthi Dravidar Street, Olimathi
Needamangalam 614 404.
5. The District Registrar /Administration
O/o. District Registrar
Nagapattinam.

+1cc to Mr.R.Bala Ramesh, Advocate, S.R.No.26917
+1cc to Mr.M.Muthappan, Advocate, S.R.No.26693
+1cc to the Government Pleader, S.R.No.27026

W.P. No. 10783 of 2021

PCH(CO)
KKV/09/07/2021

सत्यमेव जयते

WEB COPY