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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.2005 of 2019
C.M.P.No.13571 of 2019

- 1.Dr.R.Alauddin
- 2.Zohural Begum
- 3.Razia Begum
- 4.Azeema Begum
- 5.Madina Begum
- 6.Zaibunnissa Begum
- 7.Shamshad Begum
- 8.R.Ameeruddin
- 9.Sirajunnissa Begum
- 10.Akthar Begum
- 11.Ifthar Begum
- 12.R.Rafiquddin
- 13.K.Razack
- 14.Md.Zubair
- 15.Zeheka

.. Appellants/Writ Petitioners

Vs

- 1.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.
- 2.The District Revenue Officer,
Land and Estate Department,
Corporation of Chennai,
Chennai - 600 003.
- 3.The Revenue Officer,
Corporation of Chennai,
Chennai - 600 003.

.. Respondents

Appeal filed under Clause 15 of Letters Patent against the order 08.02.2019 made in W.P.No.2879 of 2011.

Prayer in WP.No.2879 of 2011: Filed under Article 226 of constitution of India calling for all the records of the



respondents culminating into the impugned proceedings of the first respondent No. Ni.ma.uthu.na.ka.No. 1e8/2620/2005 dt. 17/11/2010 and quash the same and consequently direct the respondents to execute and register the sale deed of the property bearing Plot No.31 comprised in R.S.No.38/1 & 40 Part T.S.No.17 of an extent of 1 ground 1028 Sq.ft. in favour of the petitioners who are the legal heirs and legal representatives of Late P.A.Rahiman Sheriff without insisting for any further sale consideration.

For Appellants : Mr.M.K.Hidayatullah
For Respondents : Ms.Karthikaa Ashok
Senior Standing Counsel

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This case has got a chequered history. The dispute has been started by late P.A.Rahman Sheriff, who was the original allottee over the payment for a sum of Rs.165.25. According to him, he has paid it and according to the appellants, it has been paid belatedly in the year 1981. There are communications right from the year 1974 onwards.

2.After the demise of the said original allottee, requests have been made for transfer in the name of the appellants. By the impugned order, the appellants were informed that they have to pay a sum of Rs.2,000/- per sq.ft. being the guideline value for executing the sale deed. Challenging the same, the appellants, who filed the writ petition on the earlier occasion, by which, the respondents were directed to consider the representation, came before this Court once again. The learned single Judge dismissed the writ petition inter alia holding that the disputed questions of fact cannot be gone into. Challenging the said order, the present appeal has been filed.

3.As rightly submitted by the learned counsel for the appellant, the foundational facts are not in dispute. In the counter affidavit filed before the learned single Judge, it has been stated that even the original allottee has not proved his title and he has not made any request seeking execution of sale deed.

4.Incidentally, it has been stated that the original documents have not been produced and the question of the legal heirs of the original allottee also will have to be seen. Therefore, the issue qua the payment made though a paltry sum of Rs.165.26 as on 1974 has not been denied or disputed. However, by the impugned order, the respondents are seeking a sum of Rs.2,000/- per sq.ft.



5. Once the correspondences between the original allottee and the respondents are denied or disputed by way of counter affidavit, the finding of the learned single Judge cannot be sustained. We find even the original allottee P.A. Rahman Sheriff has sent a communication on 16.11.1981 asking for execution of the sale deed after making payment. As on today, no steps have been taken either to cancel it or for asking the payment of excess amount. It is only on the request made by the appellants such a stand has been taken afresh by the respondents. To put it differently, had the original sum of Rs.165.26 been paid by the deceased P.A. Rahman Sheriff, the respondents would have executed the sale deed way back in the year 1974 itself. We are dealing with the case where substantial amount has been paid, even according to the respondents, the dispute was only with respect to the payment of Rs.165.26. Therefore, it is absolutely unfair to fix a sum of Rs.2,000/- per sq.ft., by the impugned communication dated 17.11.2010.

6. In such view of the matter, we are inclined to set aside the order of the learned single Judge and the impugned communication dated 17.11.2010. We quite appreciate the issue raised with respect to the entitlement of the appellants being the descendants and being the legal heirs of the original allottee. One has to see the position on the premise that the sale deed having been executed in the year 1974 in favour of the original allottee and thereafter, the persons who are entitled to. This is a matter, which the respondents will have to look into.

7. In such view of the matter, respondents 2 and 3 are directed to conduct an enquiry only with respect to the legal heirs of the deceased late P.A. Rahman Sheriff and thereafter complete the formality of executing the sale deed. The needful will have to be done within a period of twelve weeks from the date of receipt of a copy of this judgment. We may also note that the allotment was made in 1960 and the deceased and his family members are in possession without any hindrance till now. The appellants are also directed to produce all the documents in original, which are available with them, at the time of enquiry.

8. The writ appeal is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar



raa/mmi

To

WEB COPY

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- 2.The District Revenue Officer,
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Corporation of Chennai,
Chennai - 600 003.
- 3.The Revenue Officer,
Corporation of Chennai,
Chennai - 600 003.

+lcc to Mrs.Karthikaa Ashok, Advocate, S.R.No.28793

+lcc to Mr.M.K.Hidyathullah, Advocate, S.R.No.29142

W.A.No.2005 of 2019

PVS (CO)
CB(23/07/2021)