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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31271 of 2016
and
W.M.P.No.27142 of 2016
and
W.M.P.No.6387 of 2021

K.R.Seenuvasan

Vs

...Petitioner

1. Mamallan Co-operative House Building Society,
Rep.by its President Sri.K.Shanmugam,
No.A-36, Mahendra Pallavan Street,
Mamallan Nagar, Kancheepuram - 631 502.
2. Inspector General, Registration Department,
Santhome High Road, Chennai.
3. District Registrar, Registration Department,
Kancheepuram District.
4. Deputy Registrar, House Facility,
Chengalpattu Division, Chengalpattu.
5. Sub Registrar, House Facility,
Chengalpattu Division, Chengalpattu Region,
Chengalpattu.
6. Joint 4 Sub Registrar,
Kancheepuram.
7. V.Rajmohan
8. V.Janagiraman
9. Amsadamayandhi
- 10.Amudavalli
- 11.Jayanthi
- 12.Mahadevan
- 13.Vetrivelan
- 14.Balamurugan
- 15.P.Radhakrishnan



16. The Deputy Director of Town and Country Planning, Chengalpattu.

17. The Kolerikuppan Muthalnilal Ooratchi, Arappanancheri Village, Mamallan Nagar, Kancheepuram - 631 502.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 2, 3 & 6 for cancelling the Sale Deed dated 02.06.1979 Registered as Document No.866 of 1979, in the Office of Sub Registrar, Kancheepuram and all other Documents executed and registered in pursuance of the abovesaid Document No.866 of 1979.

For Petitioner : Mr.S.Natana Rajan

For Respondents R1 : Mr.L.P.Shanmugasundaram

R2 to R6 & R16 : Mr.K.M.D.Muhilan
Government Advocate

R15 : Mr.P.Ebenezer Paul

R7 : Dr.R.Gowri

O R D E R

The writ on hand is filed to direct the respondents 2, 3 & 6 for cancelling the Sale Deed dated 02.06.1979 Registered as Document No.866 of 1979, in the Office of Sub Registrar, Kancheepuram and all other Documents executed and registered in pursuance of the abovesaid Document No.866 of 1979.

2. The grievance of the writ petitioner is that execution of sale deed in respect of the property earmarked as Open Space Reservation (OSR) under the building plan permit in an approved layout is an illegal act and such sale deeds are to be declared as null and void.

3. However, the Sub Registrar or the District Registrar as of now is empowered to conduct an enquiry and submit a report, but they cannot declare a particular document as null and void. However, the entries are to be made in the Encumbrance index. There are allegations and counter allegations between the parties. The contesting respondent i.e., 15th respondent states that they are the bonafide purchasers of the land and the subject land was allotted by the first respondent / Co-operative society in accordance with the building plan approval and



therefore, their rights are to be protected. The OSR earmarked in the original plan permit was modified as housing plot in the revised plan approval.

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4. However, the High Court cannot conduct an adjudication in respect of such disputed facts and the competent authorities are bound to verify the original records regarding building plan permit and the allotments made, if any, as well as the activities of the first respondent / Co-operative society in allotting the lands to its members as per the approved layout. In this regard, the 16th respondent / The Deputy Director of Town and Country Planning, Chengalpattu, has to conduct a detailed enquiry and pass appropriate orders and an order is passed, must be communicated to the Inspector General of Registration, District Registrar and the Sub Registrars concerned, enabling them to make necessary entries in the Encumbrance index.

5. If the 16th respondent after conducting a detailed enquiry, arrived a conclusion that the subject land was earmarked as OSR under the approved plan, then all appropriate further actions are to be initiated under the provisions of the Town and Country Planning Act, 1990 or under the Tamil Nadu District Municipalities Act as the case may be and whichever is applicable during the relevant point of time. At the outset, after conducting enquiry, all necessary actions are to be undertaken both by the authorities of the Town and Country Planning as well as by the Registration Department in the manner known to law. The 16th respondent is directed to conduct the enquiry and complete the same within a period of three months from the date of receipt of a copy of this order. The order passed pursuant to the enquiry, must be communicated to the authorities of the Registration Department and to the authorities of the Director of Town and Country Planning and initiate all further actions in accordance with law.

6. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The President,
Sri.K.Shanmugam,
Mamallan Co-operative House Building
Society, No.A-36, Mahendra Pallavan Street,
Mamallan Nagar, Kancheepuram - 631 502.
2. The Inspector General,
Registration Department,
Santhome High Road, Chennai.
3. The District Registrar,
Registration Department,
Kancheepuram District.
4. The Deputy Registrar,
House Facility,
Chengalpattu Division,
Chengalpattu.
5. The Sub Registrar, House Facility,
Chengalpattu Division,
Chengalpattu Region,
Chengalpattu.
6. The Joint 4 Sub Registrar,
Kancheepuram.
7. The Deputy Director of Town and Country
Planning, Chengalpattu.
8. The Kolerikuppan Muthalnilal Ooratchi,
Arappanancheri Village,
Mamallan Nagar,
Kancheepuram - 631 502.

+1cc to Mr.P.Ebenezer Paul, Advocate, S.R.No.50810

+1cc to Mr.N.Sivaprakash, Advocate, S.R.No.51079

W.P.No.31271 of 2016

AK-II[co]
NSK 07/10/2021