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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.09.2021

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.3889 of 2016
and WMP No.3253 of 2016

K.A.Haja Mohideen

... Petitioner

Vs

1. The Managing Director,
Tamil Nadu Housing Board (TNHB),
No.493, Anna Salai, Nandanam,
Chennai-600 035.

2. Executive Engineer,
Tamil Nadu Urban Development Scheme,
Souripalayam Housing Unit Colony,
Peelamedu, Coimbatore-641 004.

3. Senthil Kumar.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents 1 & 2 to execute the sale deed in respect of Plot No. MIG 1125 in the sanctioned plan Ganapathy Phase I site and Service Scheme ad measuring 188 Sq.Mt. at Ganapathy Village, Coimbatore as per the communication of the 2nd respondent vide allotment order in letter No. A3/2224/90 dated 29.12.94 in the name of the petitioner.

For Petitioner : Mr.M.Raja Sekhar

For Respondents : Mr.R.Bharath Kumar (for R1 & R2)
Standing Counsel for TNHB
No appearance (for R3)

O R D E R

The relief sought for in the present writ petition is to direct the respondents 1 & 2 to execute the sale deed in



respect of Plot No. MIG 1125 in the sanctioned plan Ganapathy Phase I site and Service Scheme ad measuring 188 Sq.Mt. at Ganapathy Village, Coimbatore as per the communication of the 2nd respondent vide allotment order in letter No. A3/2224/90 dated 29.12.94 in the name of the petitioner.

2. The petitioner states that he was allotted a vacant plot in the middle income group scheme in the Ganapathy phase-I site & Service Scheme to an extent of 188 Sq. meter at Ganapathy Village, Coimbatore on 29.12.1994 by the 2nd respondent vide application No.42572. Pursuant to the allotment of the plot the initial deposit to the tune of Rs.50,490/- was paid by the petitioner and the balance sum of Rs.75,735/- had been paid in 10 years at the rate of Rs.1063 per month. The petitioner paid the total sale consideration of sum of Rs.1,61,407/- and the last payment was made on 17.02.2005. The petitioner has been approaching the office of the 1st and 2nd respondents for the execution of sale deed in his favour. However, they have not given any convincing answer nor executed the sale deed in favour of the petitioner. Thus, the petitioner is constrained to move the present writ petition.

3. The petitioner has further stated that some fraudulent activities occurred in respect of the allotment made in favour of the petitioner. An FIR was registered against one Mr.A.V.Sankarlal, who was working as an Executive Engineer, Tamil Nadu Housing Board, Peelamedu, Coimbatore. He was charged with the offence under Sections 468, 471 & 420 of IPC in FIR No.23 of 2014.

4. Under these circumstances, an enquiry was conducted by the competent authorities of the Tamil Nadu Housing Board. Accordingly, they have filed a counter affidavit in this writ petition categorically stating as follows:

"6. I respectfully state that the petitioner has filed FIR against the then Executive Engineer and Administrative Officer, Thiru.A.V.Sankarlal son of (Late) A.V.Viswanathan for offence under Section 468, 471 and 420 IPC. Also this respondent has requested the petitioner and Thiru.L.Senthilkumar to produce the original documents such as 1) Original allotment order 2) Copy of application for allotment 3) Copy of original receipts. The petitioner has submitted the documents called for but the Senthil Kumar has not



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turned up and produced the documents required. However, the 2nd respondent has approached the Sub Registrar Office, Coimbatore to cancel the sale deed issued in favour of Thiru. L.Senthilkumar. But, it was informed that any Registration or cancellation can be done only in the presence of both vendor and purchaser as per the rules of the Registration Department. Due to non appearance of the purchaser, the cancellation could not be done. Also, this respondent is not aware that the building materials stored in the above said plot for commence of construction.

7. Regarding the averments made in para 5, I respectfully submit that on perusal of the documents produced, it reveals that the petitioner has paid the total tentative cost of the MIG Plot No.1125 of Ganapathy Phase-1 Scheme.

8. I respectfully submit that due to non appearance of the purchaser, Thiru.L.Senthilkumar, the sale deed issued in his favour could not be cancelled. The fresh sale deed can be issued in favour of the petitioner only after cancelling the earlier one."

5. Perusal of the counter affidavit would reveal that the respondents have conceded the case of the writ petitioner regarding the fraudulent transactions occurred in respect of the allotment made in favour of the petitioner. Thus, the fraudulent transactions are to be cancelled and sale deed if any registered are to be cancelled.

6. In this regard, the learned counsel for the petitioner states that the said Mr.Senthil Kumar also sent a letter to the Executive Engineer, Tamil Nadu Housing Board, stating that he is willing to cancel the registration made and ready to co-operate for such cancellation.

7. Thus, the respondents are directed to initiate appropriate action for cancellation of document by conducting an enquiry and thereafter, restore the allotment made in accordance with law. The said exercise is directed to be done as expeditiously as possible.



8. With these directions, the writ petition stands disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,
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Chennai-600 035.
2. Executive Engineer,
Tamil Nadu Urban Development Scheme,
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Peelamedu, Coimbatore-641 004.

+1CC to Mr.R.Bharathkumar, Advocate, Sr.No.47453

WP No.3889 of 2016

CP (CO)
K.RK. (18.10.2021)