



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.35029 of 2019

1. S.Mary
 2. Jithin Jacob
- ... Petitioners

vs.

1. The Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai 600 009.
 2. The Tamil Nadu Housing Board,
rep. by its Chairman,
Anna Salai, Nandanam,
Chennai 600 035.
 3. The Executive Engineer,
Wood Working Unit Division,
Tamil Nadu Housing Board,
K.K.Nagar,
Chennai 600 078.
 4. The Manager (Sales and Service),
Wood Working Unit Division,
Tamil Nadu Housing Board,
Thirumangalam,
Chennai 600 101.
 5. The Tahsildar,
Pollachi,
Coimbatore District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorarified Mandamus, calling for the records in Letter No.WWUDn/Allot/676/2015, dated 03.12.2019 on the file of the 4th Respondent herein and quash the same and direct the Respondents herein to transfer the allotment order issued to the Petitioner's sister Late Selvi Baby Sironmani vide Lr.No.WWUDn/Allot/676/2015, dated 21.08.2015 in favour of the



Petitioners by receiving the remaining actual tentative cost of Rs.59,94,893/- as per letter dated 28.08.2012 of the 4th Respondent and execute the Sale Deed to and in favour of the Petitioners in respect of Flat No.22 (MIG I Flat) XI Floor at Wood Working Unit site under "Self Finance Scheme" and put the Petitioners into possession of the Flat.

For Petitioners : Mr.A.Saravanan
For Respondents 1 & 5 : Mr.P.Gurunathan,
Addl. Government Pleader
For Respondents 2 to 4 : Mr.R.Bharathkumar

O R D E R

This Writ Petition has been filed challenging the order of the 4th Respondent vide Letter No.WWUDn/Allot/676/2015, dated 03.12.2019 and for a consequential direction to the Respondents herein to transfer the allotment order issued to the 1st Petitioner's sister Late Selvi Baby Sironmani vide Lr.No.WWUDn/Allot/676/2015, dated 21.08.2015 in favour of the Petitioners by receiving the remaining actual tentative cost of Rs.59,94,893/- as per the letter dated 28.08.2012 of the 4th Respondent and execute the Sale Deed to and in favour of the Petitioners in respect of Flat No.22 (MIG I Flat) XI Floor at Wood Working Unit site under "Self Finance Scheme" and put the Petitioners into possession of the Flat.

2. According to the 1st Petitioner viz. S.Mary, she is the elder sister of Late Selvi Baby Sironmani and the paternal grandmother of the 2nd Petitioner herein. It is stated by the 1st Petitioner that, on 25.08.2014, her own sister Late Selvi Baby Sironmani submitted Application No.626 to the 3rd Respondent herein for allotment of a Flat promoted by the Tamil Nadu Housing Board under the Scheme viz. 627 MSB Flats at Wood Working Unit Scheme vide Project Code M.I.G. along with a Demand Draft for Rs.2,00,000/- towards pre-deposit.

3. Thereafter, vide Letter dated 21.08.2015, the 3rd Respondent sent a communication to the 1st Petitioner's sister Late Selvi Baby Sironmani and confirmed the allotment of M.I.G. I, Flat No.22, XI Floor at Wood Working Unit site under "Self Finance Scheme" subject to Rules and Regulations prescribed in the Application form. They informed that, the tentative cost of the Flat is Rs.81,82,000/- and asked the 1st Petitioner's sister to pay the same. Thereafter, the 1st Petitioner's sister paid a sum of Rs.6,18,200/- vide Demand Draft dated 06.04.2015. But, she did not receive any receipt for the same. As, the 1st Petitioner's sister Selvi Baby Sironmani died on 16.01.2016, the



1st Petitioner sent a letter dated 07.03.2016 to the 3rd and 4th Respondents herein intimating the sudden demise of her sister, along with the Death Certificate. She also requested the Respondents to transfer the allotment in favour of the 2nd Petitioner as per the Will dated 16.09.2015 executed by Late Selvi Baby Sironmani.

4. The 4th Respondent vide letter dated 06.09.2016, directed the Petitioners to approach the appropriate Court to obtain necessary orders for transfer of allotment in favour of the 1st Petitioner. Accordingly, the 1st Petitioner filed a Civil Suit in O.S.No.369 of 2016 on the file of the District Munsif Court, Pollachi and a judgment and decree was issued in favour of the Petitioners. The 1st Petitioner sent a copy of the said judgment and decree to the 3rd and 4th Respondents herein. However, the 4th Respondent, vide letter dated 18.09.2019 once again directed the 1st Petitioner to approach this Court for obtaining probate of Will dated 16.09.2015, to enable them to transfer the allotment and execute the Sale Deed in favour of the Petitioners. While so, the 4th Respondent, by letter dated 03.12.2019, cancelled the allotment of Flat made in favour of the 1st Petitioner's sister Late Selvi Baby Sironmani. Aggrieved by the same, Petitioners are before this Court by way of the present Writ Petition.

5. Learned counsel for the Petitioners pointed out that, in the impugned order dated 03.12.2019, the 4th Respondent had insisted for production of (i) Death Certificate of the deceased allottee (ii) Legal Heirship Certificate (iii) No Objection Certificate from the other legal heirs and (iv) Succession Certificate from this Court, to establish that the Petitioners are the legal heirs of the deceased allottee.

6. Learned counsel appearing for Respondents 2 to 4/Tamil Nadu Housing Board submitted that, though the 1st Petitioner claims to be the sister of the deceased allottee, the order impugned in the present Writ Petition was passed only based on the representation made by the 1st Petitioner. He went on to state that, the 1st Petitioner produced the Will dated 16.09.2015 executed by Late Selvi Baby Sironmani, but, she is not able to produce the Legal Heirship Certificate. He further submitted that, it would suffice if this Court directs the Petitioners to produce (i) No Objection Certificate from the other legal heirs (ii) Legal Heirship Certificate and (iii) Succession Certificate from the competent Court of Law, to establish that they are legal heirs of the deceased allottee.

7. Heard the learned counsel on either side and perused the material documents available on record.



8. Considering the facts and circumstances of the case and taking note of the submissions of the learned counsel on either side, as the 1st Petitioner is a class-II legal heir of the deceased allottee, production of Legal Heirship Certificate and Succession Certificate from the competent Court of Law is inevitable. Hence, this Court directs the Petitioners herein to produce (i) No Objection Certificate from the other legal heirs (ii) Legal Heirship Certificate and (iii) Succession Certificate from the competent Court of Law, before Respondents 2 to 4 herein, to establish that they are the legal heirs of the deceased allottee. Upon receipt of the abovesaid documents, Respondents 2 to 4 shall consider the same in accordance with law and transfer the allotment order in favour of the Petitioners in respect of the Flat in question, after collecting entire dues from them.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected W.M.P.Nos.35810, 35811, 35813 and 35815 of 2019 are closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Principal Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St. George, Chennai 600 009.
2. The Chairman,
Tamil Nadu Housing Board,
Anna Salai, Nandanam, Chennai 600 035.
3. The Executive Engineer,
Wood Working Unit Division,
Tamil Nadu Housing Board,
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4. The Manager (Sales and Service),
Wood Working Unit Division,
Tamil Nadu Housing Board,
Thirumangalam, Chennai 600 101.



5. The Tahsildar,
Pollachi, Coimbatore District.

+1cc to Mr.R.Bharathkumar, Advocate SR. No.67450

+1cc to Mr.A.Saravanan, Advocate SR. No.67299

+1cc to Government Pleader SR. No.67500

W.P.No.35029 of 2019

PL (CO)

PR (04/03/2022)