



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.NO.35395 OF 2019

AND

W.M.P.NO.25535 OF 2021

1. O.V.Veerappan (Deceased) ...Petitioner

2. Saradha

3. Suseela

4. Bharathi

5. Subashmohanan

...Petitioners impleaded vide order dated 23.12.2021
in W.M.P.No.25535 of 2021

vs.

1. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

2. The Executive Engineer,
Tamil Nadu Housing Board,
Coimbatore Housing Unit,
Tatabad, Coimbatore - 641 012.

3. C.Chellamuthu.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus directing the 2nd respondent to dispose petitioner representation dated 13.08.2019.

For Petitioner	: Mrs.D.Bharathy
For Respondents 1 & 2	: Mr.Bharathkumar
For 3rd Respondent	: No Appearance

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus to direct the 2nd respondent to consider the petitioner's representation dated 13.08.2019 in accordance with



law and also to issue sale deed in favour the petitioner as early as possible.

2. The case of the petitioner is that he was allotted a house bearing Door No.171 of SHS Colony as per the order of Assistant Commissioner of Labour, Coimbatore vide order No.33/71 dated 26.08.1971 and there is no default of rent by the petitioner. While being so, the petitioner rented the said house to one Chellamuthu. Thereafter, the said Chellamuthu did not vacate the house and also filed a suit in O.S.No.148 of 1999 and the same was dismissed on 14.07.2005. During the year 2006, the 2nd respondent issued a scheme for ownership and execution of sale deed for the persons having orders by way of rental basis and in order to avail the benefit, the petitioner made representation before the 2nd respondent on 24.03.2006, however, till date no steps were initiated by him to execute the sale deed in favour of the petitioner.

3. It is further submitted that the petitioner filed a suit in O.S.No.2734 of 2008, and the same was decreed in favour of the petitioner vide order dated 10.06.2013. The said Chellammuthu filed A.S.No.133 of 2013 which was dismissed on 10.01.2017 confirming the orders passed in O.S.No.2734 of 2008 which is in favour of the petitioner. However, the 2nd respondent has not initiated any steps in respect of illegal occupancy of said Chellamuthu and has not initiated any proceedings to execute the sale deed in favour of the petitioner. Taking advantage of the inordinate delay made by the 2nd respondent, the said Chellamuthu filed second appeal in S.A.No.351 of 2017 and the same is pending. The petitioner also made a representation before the 2nd respondent on 13.08.2019 to implement the order decreed in favour of the petitioner and also sent reminder on 17.09.2019, for the same however, till date no orders were passed. Hence, this Writ petition.

4. The learned counsel for the petitioner submitted that during the pendency of the Writ petition, the petitioner passed away and his legal heirs have impleaded themselves to represent the petitioner/deceased. It is pertinent to note that inspite of absence of any interim order against the petitioner, the respondents refused to execute a sale deed in favour of the petitioner on the ground that the legal heirs of the petitioner are not appropriate persons for executing the sale deed. He further submitted that also the suits filed by the said Chellamuthu were dismissed and though the civil suit filed by the petitioner in O.S.No.2734 of 2008 was decreed in favour of the petitioner, refusing to execute the sale deed in favour of the petitioner's legal heirs are not acceptable one. Hence, it would suffice, if this Court issues direction to the 2nd



respondent to consider the petitioner's representation and execute sale deed in favour of the petitioner's legal heirs as expeditiously as possible.

5. Though notice was served to the 3rd respondent, none appeared on behalf of the 3rd respondent.

6. The learned counsel appearing for the Housing Board fairly conceded that the petitioner's representation dated 13.08.2019 will be considered and are ready to execute the sale deed in favour of the petitioner's legal heirs.

7. In view of the above submissions made by the learned counsel on either side, since both the suits were decreed in favour of the petitioner and since there is no interim order against the petitioner, mere pendency of a civil suit does not give any power to the 2nd respondent to refuse the execution of sale deed in favour of the petitioner's legal heirs. Hence, this Court issues direction to the petitioner's legal heirs to submit the legal heir-ship certificate and thereafter, the housing board is directed to execute the sale deed in favour of the deceased 1st petitioner's legal heirs within a period of four weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

skt

To:

1. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
2. The Executive Engineer,
Tamil Nadu Housing Board,
Coimbatore Housing Unit,
Tatabad, Coimbatore - 641 012.

+1cc to M/s.D.Bharathy, Advocate, S.R.No.69335

+1cc to M/s.R.Bharath Kumar, Advocate, S.R.No.69925

W.P.No.35395 of 2019

and

W.M.P.No.25535 of 2021

UM(CO)

RLP(25/02/2022)