



WEB COPY



W.P.No.3716 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P.No.3716 of 2019

and

W.M.P.Nos.4108 of 2019 & 24152 of 2021

M.Alli

.. Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai – 35.

2.The Secretary,
The Tamil Nadu Housing Board,
Nandanam, Chennai – 35.

3.The Executive Engineer & Principal Administrator,
Tamil Nadu Housing Board,
Anna Nagar Division, Chennai – 101.

4.V.A.Joy

5.Shahar Banu

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari, calling for the records pertaining to passing of the notification dated 18.01.1990 and subsequent allotment order



W.P.No.3716 of 2019

No.A1/5579/90 dated 18.05.1990 and possession handing over dated 27.11.1990 in favour of the 4th respondent and quash the said allotment order and handing over the possession and consequently all subsequent sale deeds to be declare as void.

For Petitioner : Mr.G.Justin

For Respondents : Mr.D.Veerasekaran,
Standing Counsel for R1 to R3
Mr.U.Venkatesan for R4
Mr.M.A.Abdul Wahab,
for M/s.K.V.Subramanian Associates for R5

ORDER

The prayer in the writ petition is as follows:-

“To issue a Writ of Certiorari, calling for the records pertaining to passing of the notification dated 18.01.1990 and subsequent allotment order No.A1/5579/90 dated 18.05.1990 and possession handing over dated 27.11.1990 in favour of the 4th respondent and quash the said allotment order and handing over the possession and consequently all subsequent sale deeds to be declare as void. ”

2. Heard Mr.G.Justin, learned counsel appearing for the petitioner.



W.P.No.3716 of 2019

3. The contention of the petitioner is that the area sold to the 4th respondent is more than the area advertised in the advertisement made by the Housing Board during the year 1990, i.e., on 18.01.1990. The writ petition has been filed in the year 2019. The writ petition has to be dismissed solely on the ground of laches.

4. The petitioner who claims to have been in possession of the property pursuant to the settlement deed executed by her grandmother Lakshmi Ammal has come up with this writ petition. The said Lakshmi Ammal has filed a suit against the Housing Board in O.S.No.2163 of 1990 and the said suit was decreed by the VI Assistant City Civil Court on 2nd April 2002. As against the said judgment and decree the Housing Board preferred an appeal in A.S.No.85 of 2003 which was allowed on 21.03.2012 upholding the claim of the Housing Board that the property belonged to it. Soon after the decree it appears that Lakshmi Ammal, who is the plaintiff in the suit in O.S.No.2163 of 1990 has executed a settlement deed in favour of the present petitioner on 20.09.2002. The predecessor in interest of the petitioner viz., Lakshmi Ammal filed a second appeal in S.A.No.939 of 2014 in this Court



W.P.No.3716 of 2019

and the said second appeal was dismissed by this Court on **15.09.2014**. A Special Leave Petition filed by the said Lakshmi Ammal challenging the judgment in S.A.No.939 of 2012 also came to be dismissed by the Hon'ble Supreme Court on 19.09.2016.

5. Undeterred, the said Lakshmi Ammal had filed the writ petition in W.P.No.27704 of 2012 seeking a mandamus to consider her representation dated 19.07.2012 for allotment of the portion of land in S.No.175/3A. The said writ petition was dismissed as withdrawn on 01.04.2014. Subsequently, one N.Indirani claiming to be the legal heir of Lakshmi Ammal filed W.P.No.3746 of 2014 which was dismissed on 07.03.2018. W.A.No.1136 of 2018 filed by her against the order dated 07.03.2018 was dismissed on 10.05.2018.

6. The present petitioner claiming under the said Lakshmi Ammal has now come up with the present writ petition seeking cancellation of the allotment made to the 4th respondent Mr.V.A.Joy. Reliance is placed on the judgment and decree of the suit in O.S.No.463 of 1992 filed by V.A.Joy claiming permanent injunction. The dismissal of the suit for permanent



W.P.No.3716 of 2019

injunction filed by Joy was confirmed by this Court in second appeal in S.A.No.1242 of 2005.

7. A perusal of the said judgment would show that since the Housing Board had not executed the sale deed in respect of the land of which Mr.V.A.Joy was declared as successful bidder, he is not entitled to maintain a suit for injunction. Subsequently it is seen that the Housing Board has executed a sale deed in respect of an extent of 2 grounds 674 sq.ft. on 24.07.2007. Therefore, the 4th respondent Mr.V.A.Joy had acquired a valid title to an extent of 2 grounds 674 sq.ft. The petitioner who claims under Lakshmi Ammal cannot claim any right over the property since the claim of Lakshmi Ammal has been finally rejected by the highest Court of land even in the year 2016.

8. This writ petition is only a method to protect the illegal occupation if any by the petitioner. Therefore, I do not see any merit in the writ petition. I deem that this writ petition is the abuse of process of Court. Lakshmi Ammal had fought for more than two decades to prevent the



W.P.No.3716 of 2019

Housing Board from taking possession of the property and now the petitioner is continuing the fight.

9. Hence, the writ petition is dismissed with costs of Rs.1,00,000/- payable to the Cancer Institute, Adyar. The costs shall be paid on or before 30th August 2022. Consequently, the connected writ miscellaneous petitions are closed.

03.08.2022

dsa

Index : No

Internet : Yes

Speaking order



W.P.No.3716 of 2019

To:-

- 1.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai – 35.
- 2.The Secretary,
The Tamil Nadu Housing Board,
Nandanam, Chennai – 35.
- 3.The Executive Engineer & Principal Administrator,
Tamil Nadu Housing Board,
Anna Nagar Division, Chennai – 101.



WEB COPY



W.P.No.3716 of 2019

R.SUBRAMANIAN, J.

dsa

W.P.No.3716 of 2019

03.08.2022