



WP.No.22760 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.No.22760 of 2015

Indira Rajendran

... Petitioner

Vs

1. The Managing Director,
Tamilnadu Housing Board,
Annasalai, Nandanam, Chennai - 600 035.
2. The Executive Engineer,
Tamilnadu Housing Board,
Coimbatore Housing Unit, Coimbatore - 641 012.
3. The Sub Registrar,
Sub-registration Officer,
Ganapathy, Coimbatore.
4. K.Amsaveni
5. R.Srilekha

... Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the Order dated 08.07.2015 made in proceedings No.Oo.thu.3.2/34576/2013 of the first respondent and quash the same.



WP.No.22760 of 2015

For Petitioner : Mr.A.E.Ravichandran

For Respondents : Mr.D.Veerasekaran
Standing Counsel for R1 & R2

Mr.K.Tippu Sulthan,
Government Advocate – R3

Mr.S.Kamadevan – R4 & R5

ORDER

This Writ Petition has been filed to quash the proceedings of the first respondent in Order dated 08.07.2015 made in proceedings No.Oo.thu.3.2/34576/2013 by cancelling the sale deed dated 02.02.2009 executed in favour of the petitioner.

2. It is the case of the petitioner that she has approached the second respondent based on the information that plots were available for sale on sale on first-cum-first-basis and believing the officials of the second respondent, the petitioner paid a sum of Rs.2,15,000/- for purchasing the plot and paid entire sale consideration. The sale deed has also been executed in document No.687 of 2009 dated 02.02.2009 before the third respondent for a sale consideration of Rs.85,000/-. In the meanwhile, the



WP.No.22760 of 2015

WEB COPY

respondents 4 and 5 filed have a Writ Petition in W.P.No.10251 of 2014 before this Court and this Court by an Order dated 10.03.2015 directed the first respondent to conduct enquiry and pass Orders within a period of four weeks. In the name of enquiry, the first respondent, without understanding the gravity of the issue has passed the impugned Order on 08.07.2011 by cancelling the sale deed executed in favour of the petitioner. Hence, the same has been challenged in this Writ Petition on the ground that the Order has been passed without consideration of the original allotment letters said to have been issued in the year 1992 and the subsequent payments said to have been made by the husband of the fourth respondent. Besides the impugned Order has been passed without enquiring the officials of the Tamilnadu Housing Board who are incharge at the relevant period, it is his further contention that the sale deed has been executed for a valuable sale consideration and the petitioner was not aware of the original agreement in favour of the husband of the fourth respondent. The respondent having received the sale consideration, now cannot cancel the sale deed by its impugned Order. There is no collusion on her part. Hence, the impugned Order has to quashed.



WP.No.22760 of 2015

WEB COPY

3. The first respondent had filed a counter to the effect that the Plot No.MIG 3504 at Ganapathy Sites and Service Scheme, Phase - III was allotted to one K.Rajendran by an allotment Order A.3/2243/91, dated 18.06.1992 fixing the tentative cost of the plot as Rs.85,000/- and initial deposit of Rs.34,500/- has been fixed and monthly instalment is fixed at Rs.736/- per month for 10 years. The Allottee, K.Rajendran paid the initial deposit of Rs.34,500/- and executed lease cum sale agreement. Therefore, the plot was handed over to the said Rajendran on 26.02.1994 and he has paid the monthly instalments regularly upto 2002.

4. At this stage, the petitioner requested name transfer in her favour, claiming to be wife of Rajendran, since Rajendran died on 21.09.2003. But the name transfer was not effected in favour of the petitioner. Subsequently, the sale deed has been executed in favour Indira Rajendran on 02.02.2009 illegally. After direction from this Court on 10.03.2015, enquiry has been conducted and in the enquiry the petitioner has not produced any document in support of her claim and orally she has informed that she has paid a sum of Rs.2,10,000/- in the office and no receipt has been issued to her. After considering the entire case, the authorities has passed the impugned Order,



WP.No.22760 of 2015

WEB COPY

Ordering cancellation of the sale deed dated 02.02.2009 executed in favour of the petitioner.

5. The fourth and fifth respondents have filed a counter stating that originally the plot was allotted to the husband of the fourth respondent and father of the fifth respondent and till his death, he has paid all the instalments and he passed away on 21.09.2003. Only after his demise, they came to know that the property has been registered in favour of the petitioner and the sale deed has been executed on the ground that the petitioner is the widow of the deceased Rajendran. The same is an outcome of impersonation, forgery and criminal conspiracy. Hence, opposed the Writ Petition.

6. I have perused the entire materials available on record.

7. Admittedly, it is not disputed by the first respondent that the subject property has been originally allotted to one K.Rajendran, lease cum sale agreement has been executed and the plot has been handed over to the said Rajendran on 26.02.1994 and he was required to pay the monthly



WP.No.22760 of 2015

WEB COPY

instalments. After his death, it appears that out right sale has been executed in favour of the petitioner claiming to be wife of the said Rajendran. Thereafter, on coming to know about the above sale deed, the fourth and the fifth respondents have filed a Writ Petition in W.P.No.10251 of 2014 and this Court by an Order dated directed the first respondent to conduct enquiry by issuing notice to the petitioner and the fourth and fifth respondents and after enquiry, the first respondents had passed the impugned Order holding that the allotment has been made in favour of K.Rajendran and he had paid the initial deposit and the instalments regularly. But, no document, whatsoever, has been filed to show that consideration of Rs.2,15,000/- has been paid by the petitioner.

8. Whereas, the sale deed has been executed in favour of the petitioner for a total consideration of Rs.85,500/- and the officials of the Tamilnadu Housing Board appears to have executed the sale deed in favour of the petitioner. On enquiry, it was found that no payment has been made. Though it is claimed by the petitioner that a sum of Rs.2,50,000/- has been paid, no receipt has been filed. Therefore, the impugned Order has been passed cancelling the sale deed and during the enquiry it is also found that



WP.No.22760 of 2015

WEB COPY

there is collusion between the petitioner and the officials and the Order also directed action against the officers who have colluded and executed such sale deed. Accordingly, the first respondent had passed the impugned Order cancelling the sale deed. Though once sale deed is executed, by an Order it cannot be annulled, this Court is of the view that as the very allotment is in favour of the fourth respondent's husband and the entire sale consideration has been paid by them, execution of the sale deed in the name of the petitioner, in the later date, suppressing the earlier allotment in favour of the husband of the fourth petitioner, that too after receipt of consideration, would not convey any title to the petitioner as the sale deed itself is a result of some misrepresentation and falsification of records.

9. In such view of the matter, though legally the Housing Board cannot unilaterally cancel the sale deed by way of the impugned Order, the proper way of cancellation of the sale deed is to file necessary application before the registering authorities as per Section 77[A] of the Registration Act for cancelling the sale deed to make necessary entries in the book and thereafter, the Housing Board shall execute necessary sale deed in favour of the 4th and 5th respondents as per law. If any such application filed by the



WP.No.22760 of 2015

WEB COPY

Housing Board before the District Registrar, the same shall be decided within a period of three months, after giving opportunity to the parties.

10. With the above directions, this Writ Petition is disposed of. No costs.

02.11.2022

vrc

To,

1. The Managing Director,
Tamilnadu Housing Board,
Annasalai, Nandanam, Chennai - 600 035.
2. The Executive Engineer,
Tamilnadu Housing Hoard,
Coimbatore Housing Unit, Coimbatore - 641 012.
3. The Sub Registrar,
Sub-registration Officer,
Ganapathy, Coimbaore.



WEB COPY



WP.No.22760 of 2015

N.SATHISH KUMAR, J.

vrc

WP.No.22760 of 2015

02.11.2022