



C.R.P(PD)No.660 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM:

Mr. JUSTICE N.SESHASAYEE

C.R.P(PD)No.660 of 2022
&C.M.P.No.3392 of 2022

VA. Joy
S/o. Augustin

... Petitioner

Vs.

1.M. Alli

2.The Executive Engineer
Site and Service Anna Nagar Division
Tamil Nadu Housing Board
Aringnar Anna Shopping Complex
Thirumangalam, Chennai 101.

3.The Chairman
Tamil Nadu Housing Board
No.331, Anna Salai, Nandanam
Chennai-600 035.

4.The Chennai Metropolitan Developments
Authority Rep.by its Member Secretary
Thalamuthu Nataraja Maligai
Egmore, Chennai- 600 008.

... Respondents



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PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair order and decreetal order dismissing the I.A.No.2 of 2019 in O.S.No.3081 of 2019 dated 19.12.2019 on the file of XVIII Additional City Civil Court, Chennai.

For Petitioner :Mr.V.Raghavachari

For Respondents :Mr.V.Narayanan for R1

Mr.P.Harish
Government Advocate for R2 to R4

ORDER

The Revision Petitioner herein is an allottee of a certain plot of land by the Tamil Nadu Housing Board (TNHB). The said allotment was made when the revision petitioner bid successfully in a public auction held by the TNHB sometime in 1990. The delivery of the said plot too was given to the revision petitioner.

2. The back drop may now have to be provided:

- After purchasing the property in a public auction, the Revision Petitioner faced obstruction from a certain Lakshmiammal and she filed O.S.No.2163 of 1990 for declaration of title and injunction, inter



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alia against the TNHB and the revision petitioner, alleging that she was a repatriate from Burma, and that she had been in occupation of this plot of land, and that she had put up a hut and obtained electricity connection etc. The revision petitioner/allottee of the property, from TNHB was arrayed as the 4th defendant. The revision petitioner on his part had filed O.S.No.463 of 1992. Both the suits came to be tried jointly. While Lakshmiammal's suit in O.S.No.2163 of 1990 came to be decreed, the suit filed by the revision petitioner in O.S.No.463 of 1992 was dismissed by the trial court.

- Challenging the decree dismissing the suit in O.S.No.463 of 1992, the revision petitioner preferred A.S.No.418 of 2003. Aggrieved by the decree passed in O.S.2163 of 1990 filed by Lakshmiamma, the revision petitioner preferred A.S.No.157 of 2002, whereas the TNHB had preferred A.S.No.85 of 2003. All these appeals were taken together and the 1st appellate Court in the first instance dismissed all the appeals.
- Challenging the decree dismissing his suit by the 1st Appellate Court in A.S.No.418 of 2003, the revision petitioner preferred S.A.No.1242 of 2005. As against the decree dismissing the first appeals preferred



against the decree in O.S.No.2163 of 2019, TNHB, preferred S.A.No.1328 of 2008 whereas the revision petitioner had preferred S.A.No.1231 of 2005. After hearing, this Court dismissed S.A.No.1231 of 2005 but allowed S.A.No.1328 of 2008 which TNHB had filed, and remanded the matter back to the 1st Appellate Court.

- Since, this decree had the effect of re-opening the entire decree of the trial Court, the 1st Appellate Court considered them all, and allowed A.S.No.85 of 2003. This in effect settled the title in favour of TNHB.
- This decree was challenged by Lakshmiammal in S.A.No.939 of 2014 and it came to be dismissed by this Court on 15.09.2014. Further S.L.P.(Civil) No.8690 of 2015 preferred to the Honourable Supreme Court also came to be dismissed on 19.09.2016.

3. In the meantime, after the decree of the trial Court, Lakshmiammal had settled this property in favour of her granddaughter, the first respondent herein, Vide a settlement deed, dated 02.09.2002.

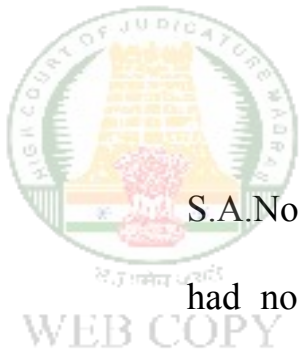
4. To reiterate the fact earlier stated, the order dismissing the S.L.P.No.8690 of 2015 preferred by Lakshmiammal confirmed that she had no title in the



property. Relentless she however was, she moved this Court in W.P.No.31766 of 2014 for certain directions and this Court vide its order 0412.2015 directed the TNHB to consider her representation. This was considered by the TNHB and rejected her request on 29. 01.2015.

5.After all the aforesaid proceedings, the *pendente lite* settlee of Lakshmiammal (the 1st respondent herein) had laid a suit in O.S.No.3081 of 2019 for declaration of her title based on the settlement deed referred to in paragraph 3 above. She also seeks to avoid that earlier decree passed against the settlor of the property namely her grandmother Lakshmiammal on the ground that she was not heard in any of the earlier proceedings after the settlement Deed was executed. She made a smart move in not impleading the present revision petitioner in her suit. The revision petitioner has now come forward with I.A.No.2 of 2019 to implead himself in O.S.No.3081 of 2019 and this was dismissed.

6. The learned counsel for the revision petitioner submitted that the trial Court has entertained the suit filed by the 1st respondent on the strength of a settlement deed when this Court had earlier found vide its judgement in



S.A.No.939 of 2014. that the executant of this document (Lakshmiammal) had no title in the plot in question to transfer, and added that the first respondent had laid the suit only to hoodwink the judicial process.

7.Heard Mr.V.Narayanan, the learned counsel appearing for the 1st respondent. He would argue that the first respondent was not heard in the first appeals or the second appeals and hence the decree passed in the first round would not bind her.

8. This Court now requires to consider the merit of the order of the trial court in refusing the revision petitioner an opportunity to participate in the suit. Here this Court considers that the order passed by the XVII Additional City Civil Judge is an atrocious piece of order. Here are the facts where the Revision petitioner has *prima facie* established that the predecessor in title of the 1st respondent did not even have any title to the property vide judgment of this Court in S.A.No.939 of 2014 and this was confirmed by the Hon'ble Supreme Court in S.L.P. (Civil) No.8690 of 2015. Is this not adequate enough ground for the revision petitioner to intervene in the suit? After all it is his title which is at stake, and should not the trial court been sensitive to



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this simple reality of facts and need for appreciating them in the context of the basic law on impleadment of parties?

9. If only the first respondent is fair to the judicial process, then she ought to have impleaded the revision petitioner in the first place, but tries to outsmart not just the revision petitioner but the judicial process, and this cannot be tolerated.

10. This Civil Revision Petition is allowed. The Fair and decretal order passed in I.A.No.2 of 2019 in O.S.No.3081 of 2019 dated 19.12.2019 on the file of XVIII Additional City Civil Court, Chennai is hereby set aside. Consequently, the connected C.M.P.No.3392 of 2022 is closed. No costs.

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Index : Yes/No
Speaking / Non Speaking

kas / dk

Note: The Registry is required to call for remarks from the concerned judicial officer.

To

The learned XVIII Additional City Civil Court



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N.SESHASAYEE, J.

kas/dk

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