



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P.No.9006 of 2013

K.Veeraghavan

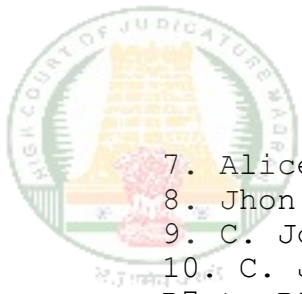
....Petitioner

Versus

1. The Tamil Nadu Slum Clearance Board,
Rep. By its Managing Director,
No.5, Kamaraj Salai,
Chennai - 5.
2. The Estate Officer,
The Tamil Nadu Slum Clearance Board,
Estate Office No.VIII,
Sivalingapuram,
K.K.Nagar,
Chennai - 78.
3. The Secretary to Government of Tamil Nadu
Housing and Urban Development Department,
State of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai.
4. The Assistant Secretary,
Law Department,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai - 5.
5. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai.

R5 is suo-motu impleaded as per order
dated 26.09.2016

6. K.Chandrabose
R6 is suo-motu impleaded as per order
dated 25.11.2016



7. Alice
8. Jhon Samuel
9. C. Joseph Israel
10. C. Joshua Daniel ...Respondents
R7 to R10 impleaded vide order dated 05.01.2021
in WMP No.16806 of 2020.

Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Mandamus directing the respondent to execute and register a sale deed in favour of the petitioner in respect of the commercial plot bearing No.2762, Shop No.5/A, New No.57, K.K. High Road, M.G.R. Nagar, Chennai - 600 078 measuring to an extent of 1.88 sq. mts developed under Madras Urban Project Development of M.G.R. Nagar Scheme.

For Petitioner : Mr.T.R. Rajagopalan
Senior Counsel
for Mr.R.Anandha Babu

For Respondents: Mr.S.Prabhu
for TNSCB for RR1, 2, 4 and 5
Mr.A. Anandan,
Government Advocate for R3

Mr.AR.L. Sundaresan
Senior Counsel for
Mr.S.Ravishankar for R7 and R8

Mr.V.Chockalingam for R9

ORDER

This writ petition has been filed for issuance of a direction to the respondent to execute and register a sale deed in favour of the petitioner in respect of the commercial plot bearing No.2762, Shop No.5/A, New No.57, K.K. High Road, M.G.R. Nagar, Chennai - 600 078 measuring to an extent of 1.88 sq. mts developed under Madras Urban Project Development of M.G.R. Nagar Scheme.

2. The case of the petitioner is that he was allotted a commercial plot bearing No.2762 Shop No.5/A, New No.57, K.K. High Road, M.G.R. Nagar, Chennai developed under Madras Urban Project Development by the Tamil Nadu Slum Clearance Board vide Proceedings of the Collector, Chennai in No.193 of 1993, dated 06.04.1993, measuring an extent of 188 sq. mts. which has been wrongly mentioned in the affidavit as 1.88 sq.mts. Thereafter, Lease-cum-Sale Agreement was entered on 26.04.1993 and on the same day itself, he has deposited Rs.89/- as token of acceptance. Subsequently, on receipt of confirmation letter by



way of proceedings issued by the 5th respondent, he paid the total sale price of Rs.37,600/- in equal monthly instalments commencing from 01.07.1993 for a period of ten years along with other charges viz., development and maintenance charges. It is further averred that he has paid the tax payments and obtained no objection certificate as well as electricity and sewage connections from the respective authorities and thus, he complied with all the requirements stipulated under the said Agreement and the final instalment has also been paid on 23.03.2012. In such a scenario, he submitted a representation to the 3rd respondent on 06.07.2012 for execution of sale deed in his favour, which has not been responded till date. Hence, he come up before this Court by filing the present writ petition.

3. Mr.T.R.Rajagopalan, learned Senior counsel assisted by Mr.R.Anandha Babu appearing for the petitioner submitted that the said commercial plot has been allotted by the respondents / Tamil Nadu Slum Clearance Board to the petitioner and having received the entire sale consideration for the whole property, it is their bounden duty of the Board to execute the Sale deed only in favour of the petitioner. However, without doing so, the Board alienated a portion of the property in favour of the 6th respondent, without any notice to the petitioner, which is wholly illegal, arbitrary and unsustainable. Hence, he prays for issuance of appropriate direction to the Board to execute sale deed in favour of the petitioner.

4. Pending writ petition, being considered as necessary parties, this Court impleaded suo motu the 5th respondent as well as the 6th respondent on various dates.

5. Per contra, Mr.S. Prabhu, learned Standing Counsel for the respondents 1, 2, 4 and 5 denied the averments mentioned in the affidavit filed in support of this writ petition and submitted that originally allotment order was issued in favour of the petitioner for the commercial Plot No.2762 to an entire extent of 188 sq. mts. in the year 1993 and subsequently, a portion of the said plot i.e., to an extent of 92 sq. mts. was sold by the petitioner to the 6th respondent. He further submitted that the respondent / Board has sent a letter to the Government stating that the encroachers, who had purchased the plots from the allottees are not remitting the instalments due to the respondent / Board and hence, Lease-cum-Sale Agreements were not executed with the allottees, which resultantly mounted to accumulation of arrears. Further, he submitted that most of the encroachers purchased the plots from the original allottees, though they had no right to sell the said property. That being the position, they sought for approval of proposals. Thereafter, on obtaining proper approval from the Member Secretary, Madras Metropolitan Development Authority, Chennai-8 vide letter dated



08.08.1995, the said plot was sub divided as Plot No.2762-A and No.2762-B and, therefore, it is submitted that Plot No.2762-B belongs to the 6th respondent. He further submits that without disclosing the aforesaid facts, the petitioner is now claiming possession of the whole extent of plot viz., 188 sq. mts, which is unsustainable. He also submits that after getting requisite approval from the respondents/Board, sale deed can be executed in favour of the petitioner only to an extent of 96 sq. mts. Hence, he vehemently opposed the arguments placed by the learned Senior counsel appearing for the petitioner and prays for dismissal of the writ petition on the ground of suppression of facts.

6. Pending writ petition, the 6th respondent died and his Legal Heirs were impleaded as respondents 7 to 10.

7. Mr. AR. L. Sundaresan, learned Senior Counsel, assisted by Mr. S. Ravishankar appearing for respondents 7 and 8 and Mr. V. Chockalingam, learned counsel appearing for the 9th respondent jointly submitted that the Board has followed the due procedure while subdividing the plot No. 2762. Moreso, the 6th respondent has also paid the penalty as well as entire cost of land prior to execution of Lease-cum-Sale agreement. As such, the 6th respondent is in possession of the said Plot to an extent 92 sq. mts from the year 1995 and after getting no objection certificate from the respondent/Board, the 6th respondent has also constructed building in the said plot and regularly paying tax amounts with respect to the sub-divided portion of the plot viz., Plot No. 2762-B.

8. This Court heard the arguments advanced by the learned Senior Counsel and learned Standing counsel appearing for the respective parties and perused the materials placed on record.

9. This is a classic case of how the official records have been manipulated either for or in detriment of the parties. Admittedly, a Lease-cum-Sale Agreement was entered into between the petitioner and the respondent / Tamil Nadu Slum Clearance Board under the Madras Urban Development Project. Subsequent to the Resolution passed by the respondent / Board, it was resolved to regularise the said scheme to original allottees and based on the said resolution damages have to be levied on all encroachers, who are not original allottees under Lease-cum-Sale Agreement.

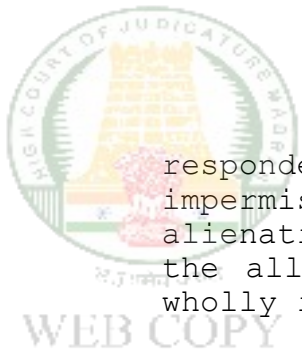
10. On perusal of records as well as from the submissions made by the learned counsel appearing for respondents / Tamil Nadu Slum Clearance Board, it is contended that the petitioner has sold 50% of the subject plot by way of unregistered sale deed to the private respondent i.e., 6th respondent herein. In



turn, the private respondent / 6th respondent has approached the respondent / Board for execution of sale deed to an extent of 92 sq. mts., based on the unregistered sale deed. However, it is the contention of the petitioner that he has not executed the unregistered sale deed and also paid the sale consideration for the entire plot and that no partial sale was effected by him with the 6th respondent. It is the further case of the petitioner that he approached the respondent / Board for execution of sale deed for the entire 188 sq. mts., but relying on the unregistered document alleged to have been entered into between the petitioner and the 6th respondent, respondents 7 to 10, who are the legal heirs of the 6th respondent, stake their claim to the extent of 92 sq. mtrs.

11. Be that as it may. Though it is the contention of the respondents / Board that due procedures were followed and only after remittance of payments due by the 6th respondent as per G.O. Ms. No.804, Housing and Urban Development Department, dated 23.09.1993, they forwarded the proposals to Chennai Metropolitan Development Authority (CMDA), for approval / regularisation of sub division of plot as 2762-A and 2762-B, it is crucial to note that they have not done so. It is pertinent to note that allotment order has been made only in favour of the petitioner. There is no allotment letter in favour of the 6th respondent to the extent of 92 sq.mtrs., nor is there any valid document showing the transfer of title to the extent of 92 sq.mtrs., from the petitioner to the 6th respondent. Moreso, as on date the petitioner had no valid title to part with a portion of land in favour of the 6th respondent. Without there being any valid sale deed between the petitioner and the respondent / Board, the act of the respondent / Board in alienating the property to the extent of 92 sq. mtrs., in favour of the 6th respondent on the basis of an unregistered sale deed is wholly unsustainable. There is no material on the basis of which the said alienation could be sustained and, therefore, not only the said sale in favour of the 6th respondent requires to be interfered with but the allotment made in favour of the petitioner also deserves to be interfered, as all seems to be not well with the whole transaction.

12. Further, it is seen that as per the letter dated 08.08.1995 issued by CMDA to the Chairman, Tamil Nadu Slum Clearance Board, Chennai, the respondents / Board has not complied with G.O. No.804, which is a clear violation of procedure. A query that falls before this Court is as to how without a valid allotment order / sale deed from the original allottee, the alleged purchaser, viz., the 6th respondent, has put up construction and had obtained sale deed from the respondent/Board. What transpires from the above is the fact that there being no sale deed in favour of the petitioner by the



respondent/Board, the alleged alienation is illegal and impermissible and adding fuel to the case is the subsequent alienation by the respondent / Slum Clearance Board in favour of the alleged subsequent purchaser i.e., 6th respondent, which is wholly impermissible and legally unsustainable.

13. The above details have been enumerated in detail by this Court only with a view to show the large scale suppression of materials and the manner in which the original allottee, the 6th respondent and the respondent/Board have dealt with the portion of the land to the extent of 92 sq.mts., This Court cannot be a mute spectator to such a high-handed act perpetrated by the parties in collusion with the respondent/Board and if such acts are not curbed with iron hands, the corruption, already rampant in the society, which has grown into monstrous proportions cannot be weeded out at any point of time. Therefore, what had happened in the whole transaction needs to be unearthed to give a quietus to the whole issue. In such view of the matter, this Court feels that an enquiry by the CB-CID into the whole genesis of the case right from the allotment of land to the petitioner till the alienation /sale deed in favour of the 6th respondent by the respondent/Board would be the just and proper course of action to find out as to what had exactly taken place in the allotment process. Though it is the contention that the petitioner has paid the entire sale consideration to an extent of 188 sq. mts on the one hand, whereas it is the version of the private respondents that the 6th respondent has paid the entire sale consideration along with penalty to an extent of 92 sq. mts and, in such a situation, this Court, at this point of time is not venturing into the monetary transaction that have taken place in this whole episode and the flow of the monetary consideration and the same can only be found out after a full fledged enquiry by CB-CID leading to the culmination of a report.

14. In the aforesaid circumstances, this writ petition is disposed of with the following directions :-

a) The 1st respondent is directed to cancel the Sale deed entered in favour of the 6th respondent to the extent of 92 sq. mts. as also the allotment made to the petitioner in respect of 188 sq. mts. of land;

b) The 1st respondent is also directed to resume the land from the 6th respondent / Legal Heirs of the 6th respondent i.e., respondents 7 to 10 as also from the petitioner, within a period of six weeks from the date of receipt of a copy of this order;



WEB COPY

c) The 3rd respondent is directed to lodge a complaint before the jurisdiction police along with a copy of this order. On such complaint being filed, the same shall be brought to the knowledge of the Commissioner of Police, who is directed to transfer the investigation from the file of the jurisdictional police to the file of the CB-CID for necessary enquiry in terms with the order above;

d) On submission of the report after conduct of investigation by CB-CID, the 3rd respondent in consultation with the 5th respondent is directed to take appropriate action on the basis of the report against the erred officials in accordance with law;

e) Further, on the basis of the report by the CB-CID, it is open to respondents 3 and 5 to make allotment of land in accordance with law.

f) No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Managing Director
The Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai - 5.
2. The Estate Officer,
The Tamil Nadu Slum Clearance Board,
Estate Office No.VIII,
Sivalingapuram,K.K.Nagar,
Chennai - 78.
3. The Secretary to Government of Tamil Nadu
Housing and Urban Development Department,
State of Tamil Nadu,Secretariat,
Fort St. George,
Chennai.



WEB COPY

4. The Assistant Secretary,
Law Department,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai - 5.

5. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Salai,
Chennai.

+5cc to R.Anandha Babu, Advocate, S.R.No.19096
+2cc to Mr.G.Ravisankar, Advocate, S.R.No.19065
+1cc to Mr.S.Prabhu, Advocate, S.r.No.19230
+1cc to the Government Pleader, S.R.No.19921

W.P. No.9006 of 2013

RSV(CO)
RGA(22/04/2022)