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W.P.No.12014 of 2022
and *WMP.No.11433 of 2022*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.12014 of 2022

and

WMP.No.11433 of 2022

K.Munusamy

... Petitioner

-Vs-

1. Chennai Metropolitan Development Authority
Rep. by its Member Secretary,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

2. The Chief Executive Officer,
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondents to execute and register the sale deed in favour of the petitioner relating to the ready built house at No.137/9, 270, MIG Block, Manali New Town, Chennai-600 103 as legal heir of the original allottee, late P.Kothandaraman without insisting on payment of guideline value and handover the sale deed in accordance with law.

For Petitioner : Mr.D.S.Rajasekaran

For Respondents : Mrs.Veena Suresh
Standing Counsel for CMDA



*W.P.No.12014 of 2022
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WEB COPY

ORDER

The prayer made in this writ petition is to issue a writ of Mandamus directing the Respondents to execute and register the sale deed in favour of the petitioner as legal heir of the original allottee late P.Kothandaraman in respect of the ready built house at No.137/9, 270, MIG Block, Manali New Town, Chennai-600 103 without insisting on payment of guideline value and handover the sale deed in accordance with law.

2.According to the petitioner, the respondents have formulated a housing scheme for the economically weaker section living in and around Manali New Town. The said Housing Scheme has no profit motive and the houses therein were sold by lease-cum-sale agreement basis, so as to enable the allottees to pay the sum in equal monthly installments. Accordingly, the petitioner's father viz., P.Kothandaraman was allotted with a MIG House vide Lr.No.AI2/144/80 dated 20.08.1984 pursuant to the resolution No.182 dated 06.08.1984 and as per the said scheme, he entered into a lease-cum-sale agreement after remitting a sum of Rs.8,250/- towards initial deposit and agreed to pay a sum of Rs.554/- per month for a total period of 15 years



*W.P.No.12014 of 2022
and WMP.No.11433 of 2022*

commencing from September 1984. Following the same, he was put in possession of the same and paying the installments regularly and few monthly belatedly. Pending execution of sale deed, the petitioner's father died on 27.11.2002. Thereafter, on coming to know about the same, the petitioner approached the respondents for execution of sale deed in his favour, as his two sisters, who are the other surviving legal heirs of his father, have expressed no objection for the same. At that time, he was informed that several allotments of allottees, who had defaulted in payment of monthly installments, were unilaterally cancelled and hence, the payment of prevailing market value was demanded for execution of sale deed in respect of the said allotment. Feeling aggrieved, the petitioner made a representation dated 17.05.2021 to the second respondent, enclosing all the relevant documents and requested to execute a sale deed in his favour. However, the said representation has not been considered till date. Hence, this writ petition.

3.The learned counsel for the petitioner submitted that the father of the petitioner through the petitioner, had paid the entire dues with interest as specified in the lease-cum-sale agreement, as early as in the year 1997; the petitioner has not been issued with any order of cancellation or any demand of



W.P.No.12014 of 2022
and WMP.No.11433 of 2022

payment of market value; the other surviving legal heirs of the deceased father / original allottee, have no objection for executing a sale deed in favour of the petitioner; and hence, the respondents ought to have executed a sale deed in favour of the petitioner, whereas they declined to do so and orally directed him to pay the prevailing market value for the same. It is also submitted by the learned counsel that in similar circumstances, some of the allottees under Manali New Town scheme, have approached this Court by filing WP.No.23555 of 2013 etc. batch and this Court by order dated 25.09.2020, disposed of the same, in the following manner:

“3. After hearing the learned counsels for sometime on 27.07.2020, a common order was passed, which reads as follows:

"After hearing the learned counsels for some time, the learned counsel appearing for CMDA is directed to file a memo of calculation in two different modes. One in the event of default, if interest and penal interest are leviable, what would be the amount payable by the petitioners. The second mode is what would be the amount payable by the very same petitioners based on the revised valuation of the property. The said memo of calculation may be circulated to the learned counsel for the petitioners in advance."

4. Thus, in the said order, the parties were directed to file a calculation memo with the waiver of penal interest or whether the petitioners were willing to pay the revised valuation of the property. The representations of the petitioners in this regard have been given to the counsel, who in turn, had reached it to the respondents-office.



*W.P.No.12014 of 2022
and WMP.No.11433 of 2022*

WEB COPY

5. The learned counsel for the C.M.D.A. (Chennai Metropolitan Development Authority) would submit that the request of the petitioners cannot be considered in piecemeal by the officer alone, but, it has to be placed before the Authority for Resolution in a meeting, normally headed by the Hon'ble Minister incharge for Housing and Urban Development Department.

6. The respondents are directed to place the representations of the petitioners before the said Authority for consideration in the next meeting that may be convened.

7. In the meanwhile, the Chief Planner of C.M.D.A. may take appropriate information from the petitioners also in this regard to put forth the same in the meeting. Merely because the date for convening of the meeting is not known today, the authority shall not defer the same sine die, but to consider the same in the very next meeting.

8. With the above directions, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.”

Stating so, the learned counsel prayed for a direction to the respondent authorities to consider the claim of the petitioner, as per law.

4. On the other hand, the learned Standing counsel appearing for the respondents submitted that the 2nd respondent, vide his communication dated 03.11.2021 to the petitioner, has called for certain documents for verification purpose, but so far, he has not submitted the same. It is also submitted that on production of necessary documents by the petitioner, the respondent authorities would consider the claim of the petitioner and pass appropriate



*W.P.No.12014 of 2022
and WMP.No.11433 of 2022*

orders, on merits and as per law, within a reasonable time to be fixed by this Court.

5. Considering the facts and circumstances of the case and having regard to the submissions now made by the learned counsel on either side, this court directs the petitioner to produce the documents as called for by the respondents in the communication dated 03.11.2021, if not produced earlier, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondents shall consider the claim of the petitioner relating to execution of sale deed, and pass appropriate orders on merits and in accordance with law, within a period of six (6) weeks. While doing so, the earlier order of this court dated 25.09.2020 passed in WP.No.23555 of 2013 etc batch, shall be taken into consideration by the respondents.

6. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

06.05.2022

Index : yes/no
Speaking/Non-speaking Order



W.P.No.12014 of 2022
and *WMP.No.11433 of 2022*

WEB COPY

To

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Chennai Metropolitan Development Authority
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2. The Chief Executive Officer,
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W.P.No.12014 of 2022
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R.MAHADEVAN, J.

kmi/msr/ch

W.P.No.12014 of 2022
and
WMP.No.11433 of 2022

06.05.2022

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