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*W.P.No.12016 of 2022
and WMP.No.11435 of 2022*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2022

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.12016 of 2022

and

WMP.No.11435 of 2022

K.Shankar

... Petitioner

-Vs-

Chennai Metropolitan Development Authority
Rep. by its Chief Executive Officer,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the Respondent to consider and pass order on the petitioner's representation dated 02.02.2022 and 07.04.2022 for execution of sale deed after receiving the balance sale consideration together with applicable penal interest towards the sale of MIG RBH Plot No.2, Block No.129 at Manali New Town, Chennai expeditiously and in accordance with law.

For Petitioner : Mr.D.S.Rajasekaran

For Respondent : Mrs.Veena Suresh
Standing Counsel for CMDA



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ORDER

The prayer made in this writ petition is to issue a writ of Mandamus directing the Respondent to consider and pass orders on the petitioner's representations dated 02.02.2022 and 07.04.2022 for execution of sale deed after receiving the balance sale consideration together with applicable penal interest towards the sale of MIG RBH Plot No.2, Block No.129 at Manali New Town, Chennai, in accordance with law.

2.According to the petitioner, the respondent has framed a housing scheme to allot vacant plots and ready built houses on a subsidized cost with no profit motive on the basis of equated monthly installments to cater the needs of weaker section of labourers working in and around Manali New Town, Chennai. Originally, Plot No.129/2, MIG RBH was allotted to one V.Dheenan vide allotment Letter dated 14.06.1984, who had also entered into a lease-cum-sale agreement to pay a sum of Rs.645/- per month for a period of 18 years from the Month of July 1984. As the said V.Dheenan had defaulted and made delayed payments on account of his illness, he offered to transfer his right over the allotted property to the petitioner, in order to protect the same



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from cancellation for default in payment of EMIs. Accordingly, the petitioner had accepted the said offer and paid a sum of Rs.3 lakhs towards installments to the Respondent on behalf of V.Dheenana. Pursuant to the same, the said V.Dheenana had executed a sworn affidavit transferring the allotment in favour of the petitioner and died on 15.03.2001 intestate with no surviving legal heirs. After his demise, the petitioner was paying the entire installments to the Respondent and is in exclusive possession of the allotted property, till date. It is the grievance of the petitioner that when he approached the respondent on several occasions for the purpose of executing a sale deed in his favour, by virtue of the transfer made by the original allottee V.Dheenana and also expressed his readiness and willingness to pay the balance installments if any along with penal interest, there was no response on the side of the respondent. In the mean while, on notice by the respondent to the original allottee, the petitioner appeared in person and produced all the documents called for by the respondent. Even thereafter, no fruitful reply is forthcoming, which compelled him to make representation dated 02.02.2022 to the respondent requesting to execute a sale deed in his favour. However, the respondent repeatedly issued notice calling upon the dead person / his legal heirs to respond to the same, failing which, the allotment will be forcibly reallocated to some third parties.



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Therefore, the petitioner sent another representation dated 07.02.2022 reiterating his request to the respondent. Since the same was not considered, he has preferred this writ petition with the aforesaid prayer.

3.The learned counsel for the petitioner submitted that the petitioner paid the entire instalments payable by the original allottee to the respondent and the original allottee executed a sworn affidavit, expressing no objection for transferring the right over the allotment of property to the petitioner and he died with no surviving legal heirs and as such, the respondent ought to have executed a sale deed in favour of the petitioner in respect of the allotment of the subject property. The learned counsel further submitted that in similar circumstances, the respondent has been executing sale deed in the name of the transferee, after obtaining the necessary undertaking in the form of indemnity bond and after receiving the balance sale consideration, if any, with applicable interest. Therefore, the learned counsel prayed for a direction to the respondent to extend the said benefit to this petitioner as well, by considering his representations dated 02.02.2022 and 07.04.2022.



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4. On the other hand, the learned Standing counsel appearing for the respondents fairly submitted that the respondent would consider the representations of the petitioner and pass appropriate orders, on merits, 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 respondent to consider the representations of the petitioner dated 02.02.2022 and 07.04.2022 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as any other interested parties, within a period of six (6) weeks, from the date of receipt of a copy of this order.

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

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Index : yes/no
Speaking/Non-speaking Order
kmi/msr



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R.MAHADEVAN, J.

kmi/msr/ch

To

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

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