



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.26593 and 26595 of 2019

Kanagarathinam ... Petitioner in W.P.No.26593/2019

N.Thangaraj ... Petitioner in W.P.No.26595/2019

vs.

Tamil Slum Clearance Board
Rep. by its Executive Engineer,
3/2, Narayanasamy Street,
Peramanur - 636 007,
Salem District.

... Respondent in both WPs

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to execute a Deed of Rectification by deleting the condition restricting alienation imposed in the sale deed dated 11.02.2019 (Doc. No. 722/2019-SRO McDonald Chouldry) and (Doc. No. 721/2019-SRO McDonald Chouldry) or to grant no objection to them sell the subject matter property measuring 63.90 and 56.80 sq. meters comprised in S. No. 36/3 (Pt) Naduvaneri Village, Sankari Taluk, Salem District by considering their representation dated 06.08.2019.

For Petitioner : Mr.N.Manokaran
(in both WPs)

For Respondent : Mr.S.Prabhu
Standing Counsel
(in both WPs)

COMMON ORDER

These writ petitions have been filed to issue a Writ of Mandamus, directing the respondent to execute a Deed of Rectification by deleting the condition restricting alienation imposed in the sale deed dated 11.02.2019 (Doc. No. 722/2019-SRO



McDonald Chouldry) and (Doc. No. 721/2019-SRO McDonald Chouldry) or to grant no objection to them to sell the subject property ad-measuring to an extent of 63.90 and 56.80 sq. meters comprised in S. No. 36/3 (Pt) Naduvaneri Village, Sankari Taluk, Salem District by considering their representation dated 06.08.2019.

2. The case of the petitioners is that the petitioners are being the houseless and landless persons entered into lease-cum-sale agreement from the month of April, 1994 with the respondent and agreed to pay the cost of the lands together with development charges at Rs.4,154 and Rs.2,556/-. Accordingly, the petitioners had settled the entire developmental charges and the respondent offered to sell the subject properties ad-measuring to an extent of 63.90 and 56.80 sq. meters comprised in S. No. 36/3 (Pt) Naduvaneri Village, Sankari Taluk, Salem District. The allotment was made in the year 1993 and the entire sale consideration has been paid even before the end of the year 2018 and the same was executed. Accordingly, the respondent executed a sale deed dated 11.02.2019 and the petitioners are in possession and enjoyment of the said properties. However, one of the conditions in the said sale deed is that restricting the alienation of the subject properties for the period of 10 years from the date of their registration. Though the petitioners had paid entire sale consideration, the said condition has been imposed while executing the sale deed.

3. Section 10 of the Transfer of Property Act, 1882 provides that where a property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his/her interest in the property, is void. Therefore, the condition imposed on the sale deed dated 11.02.2019 is void. Therefore, the petitioners submitted representation dated 06.08.2019 to the respondent to execute the Deed of Rectification by deleting the condition that restraining the alienation of the subject property. It is pending on the file of the respondent without any consideration, even till today. Since the petitioners are the aged persons and they are in dire need of money to meet out their health issues.

4. Considering the above, the respondent is directed to execute the Deed of Rectification in favour of the petitioners in respect of their respective subject properties in pursuant to the sale deed dated 11.02.2019 registered vide Document Nos. 721



and 722/2019-SRO McDonald Chouldry by considering their representation dated 06.08.2019, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above direction, these writ petitions are allowed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

dm
To

The Executive Engineer,
Tamil Slum Clearance Board,
3/2, Narayanasamy Street,
Peramanur - 636 007,
Salem District.

+2cc to M/s.N.Manokaran, Advocate Sr.6996 and 6998
+2cc to Mr.S.Prabhu, Standing Counsel, Sr.6687 and 6688

W.P.Nos.26593 and 26595 of 2019

ajs[col
srg 23/02/2022