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W.P.No.29427 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.11.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.29427 of 2022 and
WMP.Nos.28765 & 28869 of 2022

D.Kavitha

... Petitioner

Vs

1. The Registrar,
Co-operative Societies (Housing),
Tamil Nadu Co-operative housing Annexes,
Ritherdon Salai, Veppery,
Chennai.
2. The Deputy Registrar, (Housing)
Virudhunagar Zone,
Virudhunagar.
3. The Co-operative sub-Registrar, (Housing)
A1321, Karaikudi Co-operative housing Society,
Paramakudi, Ramanathapuram District.
4. The Secretary,
A1321, Karaikudi Co-operative housing Society,
Soodamanipuram, Karaikudi,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned order of the 1st respondent dated 06.07.2022 in Na.Ka.No.3352/2022/A1 and consequential proceedings dated 25.07.2022 of the 2nd respondent in



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Na.Ka.No.988/2022SaPa and consequential proceedings dated 22.08.2022 of the 3rd respondent in A.No.01/2022/Enquiry and quash the same.

For Petitioner : Mr.J.Anandkumar
For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader accepts notice for the respondents and is armed with instructions to enable final disposal of this matter.

2. The petitioner challenges order of the first respondent dated 06.07.2022 and consequential proceedings of the second respondent dated 25.07.2022 and third respondent dated 22.08.2022.

3. Both learned counsel would concur on the position that an identical matter has been dealt with by this Court in W.P.No.28457 of 2022 and the following order has been passed:

3. The petitioner claims that he is the owner of the property in Plot No.368 of Raja Street, Soodamanipuram, Karaikudi. According to him, the said plot is an approved plot and the lay out was formed by the 4th respondent Society. According to the petitioner, Rakkammal @ Susila was a member of the Society and Plot No.368 was earlier allotted to her and the sale deed dated 28.08.1995 was executed by the 4th respondent in her favour. Rakkammal @ Susila then executed a sale deed dated 31.01.2003 in favour of one Vellaiammal. Thereafter, the said Vellaiammal executed a registered sale deed dated 13.09.2019 in favour of the petitioner's father D.Jalaludhin. According to the petitioner, his father executed a settlement deed dated 05.08.2020 in his favour and after the execution of the settlement deed, he has constructed a



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house and they are presently living there. According to the petitioner, he was surprised to receive an enquiry notice from the 3rd respondent under section 81 of the Tamil Nadu Co-operative Societies Act calling him to appear for enquiry on 06.09.2022. According to the petitioner, only thereafter, he came to know that Vellaisamy, who became the member of the 4th respondent Society in the year 2016, made a complaint to the allotment made by the 4th respondent Society. According to the petitioner, the allotment for which the complaints were made relates to the year 1991. Therefore, according to the petitioner, the sale deed executed thereafter, cannot be questioned. According to the petitioner, his father was a bonafide purchaser and therefore, the sale deed executed in the name of his father for plot No.368 cannot be questioned.

4. Admittedly, only an enquiry notice has been issued under section 81 of the Tamil Nadu Cooperative Societies Act which is the subject matter of challenge in this writ petition. The petitioner will have to necessarily submit an explanation to the said notice and participate in the said enquiry and prove his innocence. Instead of participating in the enquiry, the petitioner has directly approached this Court under Article 226 of the Constitution of India, which in the considered view of this Court is premature.

5. The learned counsel for the petitioner, on instructions, would now submit that the petitioner is willing to participate in the enquiry, provided no coercive steps are taken against him till final orders are passed in the enquiry proceedings.

6. No prejudice would be caused to the respondents if the petitioner's interest is protected by directing the respondents not to take any coercive steps till final orders are passed in the enquiry proceedings.

7. For the forgoing reasons, this Writ Petition is disposed of by directing the petitioner to participate in the enquiry proceedings pursuant to the issuance of the impugned notice under section 81 of the Tamil Nadu Cooperative Societies Act and the respondents are directed to pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner and by following due procedure established under law. Till final orders are passed by the respondents, no coercive steps shall be taken



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against the petitioner by the respondents. No costs. Consequently, connected miscellaneous petitions are closed.

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4. In light of the admitted identity in facts and legal position, the layout in the present matter and that dealt with by the learned Judge in W.P.No.28457 of 2022 being one and the same, the same order is taken to be passed in the present matter as well.

5. The petitioner is directed to participate in the enquiry and after hearing him along with other petitioner, whose case has been decided along the identical lines, the respondents will pass orders in accordance with law, within a period of sixteen (16) weeks from date of receipt of a copy of this order.

6. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petitions are closed.

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Index : Yes / No
Speaking Order

To

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