



Cont.P(MD)No.995 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Cont.P(MD)No.995 of 2014

K.Baskaran

: Petitioner

Vs.

V.Boominathan,
President,
Shanmuganagar Co-operative Building Society,
Kannan Nagar,
Thanjavur.

: Respondent

[R.1, R.2 were deleted vide order dated 18.11.2021]

[Respondent / erstwhile R.3 was substituted vide order dated 22.12.2021]

PRAYER: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to punish the contemnor for the wilful disobedience of the order passed by this Court in WP(MD)No.14099 of 2013, dated 26.08.2013.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondent : Mr.D.Gandhiraj



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ORDER

This contempt petition has been filed that the order passed by this Court in WP.(MD)No.14099 of 2013, dated 26.08.2013 has not been complied with.

2. The petitioner herein filed the writ petition in WP.(MD)No.14099 of 2013 for a mandamus, directing the respondent herein / President of Shanmuga Nagar Co-operative Building Society, Thanjavur, to complete the proceedings as per the direction of the Deputy Registrar (Housing), Thanjavur, in Na.Ka.No.1011/2012 Sa.Pa., dated 30.08.2012.

3. The Deputy Registrar (Housing), Thanjavur, by his proceedings dated 30.08.2012, directed the Special Officer, Shanmuga Nagar Co-operative Housing Building Society, Thanjavur, to take appropriate action to cancel the sale of vacant sites in favour of 14 individuals. This order was passed based on the enquiry report under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. The Enquiry Officer has filed a report that the Society sold 14 plots at a lesser cost than the guideline value to the office bearers of the Society, their relatives and to the Officials of the Co-operative department, by treating them as encroachers of



certain plots of the Society and made a proposal to the Joint Registrar to sell those lands to the encroachers at a cost of Rs.10.75p., per sq.ft., as against the guideline value, at that point of time, of Rs.57/- per sq.ft. The Enquiry Officer has also pointed out that any proposal for sale of land has to be made only through the Registrar of Co-operative Societies (Housing). However, the proposal for selling the lands to the encroachers was made through the Joint Registrar and after getting order from the Joint Registrar, the lands were sold to the relatives of the members of the Society at a lesser cost than the guideline value. Based on this report, the Deputy Registrar (Housing), by the proceedings impugned in W.P.(MD)No.14099 of 2013, directed the Special Officer to cancel all the illegal allotments.

4. This Court, while disposing the writ petition, taking note of the proceedings of the Deputy Registrar (Housing) dated 30.08.2012, observed that already enquiry under Section 81 of the Act was conducted and the Deputy Registrar (Housing) issued a direction to the Special Officer to cancel the illegal registration of documents, which were registered in favour of 14 persons and passed the following order:-

“In view of that, the third respondent is directed to complete the proceedings as per the directions of the 2nd respondent, dated



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30.08.2012 giving notice to all the parties concerned and decide the same, as per law, within a period of sixteen weeks from the date of receipt of a copy of this order. Accordingly, the writ petition is disposed of. No costs.”

5. Alleging that this order has not been complied with, this contempt petition has been filed and the same is pending from the year 2014.

6. The learned Special Government Pleader submitted that the names of the respondents 1 and 2 were deleted by this Court, by order dated 18.11.2021 and the third respondent / alleged contemnor had also committed suicide. Therefore, nothing survives in the contempt petition.

7. The Deputy Registrar (Housing), by his proceedings dated 30.08.2012, held that the plots were sold illegally to the officials of the Department and also to the office bearers of the Society and passed an order to cancel those allotments. The Writ Court has directed the respondent herein to implement the order passed by the Deputy Registrar (Housing). However, the respondent, without taking any action as directed, took a stand that the respondent / contemnor is no more and nothing survives in the contempt petition. Considering the seriousness of the issue



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involved and the loss caused to the exchequer, this Court, not satisfied with the stand taken, raised a query on the steps taken by the Special Officer for cancelling those pattas granted in favour of the officials.

8. The learned Special Government Pleader submitted that pursuant to the orders of this Court, the Special Officer has issued notices to 14 persons, who obtained plots in a fraudulent manner and they replied that they are not parties to the proceedings and therefore, the order passed in the writ petition is not binding on them. The Special Officer has also approached the Sub-Registrar to cancel the documents, however, the Sub-Registrar replied that the documents, which were already registered, could not be cancelled unilaterally. Thereafter, the Special Officer lodged a criminal complaint before the District Crime Branch, Thanjavur in CSR No.55760/G3/2013 on 24.12.2013 and also sought for an opinion from the Government Pleader, Thanjavur. The Government Pleader, Thanjavur, on 09.07.2014, opined that in view of the provision of the Limitation Act, the Special Officer cannot proceed further on those sales.

9. The learned Special Government Pleader further submitted that in the surcharge proceedings initiated under Section 87 of the Co-operative Societies



Act, the concerned authority has recorded a finding that there is no mistake in the sale of plots to those 14 persons. Therefore, they have not proceeded further after 2014. Further, the third respondent, who is the only contemnor in this petition, also died and therefore, nothing survives in this contempt petition.

10. At this juncture, the learned counsel for the petitioner produced a copy of a cancellation deed dated 06.03.2014, which was originally registered in favour of Vasanthi, one among those 14 persons. It appears that the President of Society has taken some efforts to cancel the sale deeds and the document registered in favour of Vasanthi alone was cancelled. It is not known as to why the same action was not taken as against the other 13 fraudulent sale transactions made in favour of the officials.

11. Though it is claimed that the respondent, who is the only contemnor, died, the Writ Court has passed the order based on the proceedings of the Deputy Registrar (Housing) directing the Special Officer of the Society to cancel the fraudulent sale deeds. The Society is in existence and the Special Officer is now represented by the subsequent President of the Society. The Deputy Registrar (Housing), in his proceedings dated 30.08.2012, categorically stated that the



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Secretary of the Society and other office bearers have created bogus records as if the lands of the Society were encroached, made a proposal to the Joint Registrar for selling those lands to the encroachers at a lesser cost, got an approval from the Joint Registrar, an incompetent authority to approve the same and sold the lands at a cost lower than the guideline value at that point of time.

12. A fraud was played on the Society and a huge loss was caused to the exchequer. Though the Deputy Registrar (Housing) directed the respondent to take appropriate action to cancel all the documents, it was cancelled as against one Vasanthi alone. It appears that after the order passed by the Writ Court, by obtaining an opinion from the Government Pleader, Thanajvur, the entire issue has been buried. The lands of the Society were sold to the family members of the office bearers of the Society and also to the Officials of the Co-operative Department at a lesser cost than the market value.

13. Since public money has been swindled with the connivance of the Officials, this Court called for a report from the Registrar of Co-operative Societies (Housing), Chennai and accordingly, an affidavit was filed by the Registrar showing the details of the plots sold as follows:-



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DETAILS OF PLOTS SOLD TO THE RELATIVES OF DEPARTMENT STAFF

S.No	Name of the Title Holder	Type of Relationship	Present status of	
			Person	Plot
1	S.Dhanamary	Benami to Mr.A.Needhimohan, then Co-operative Sub Registrar / Special officer of the Society who is the Deputy Registrar (under suspension now)	Since Died	Vacant site – in her own name
2	Savithri	Wife of Mr.N.V.Krishnasamy, then Deputy Registrar (Housing), Thanjavur (retired)	Both Died	Vacant site – in her own name
3	K.Selvamathi	Wife of Mr.P.Kalimuthu, then Office Superintendent (Co-operative Sub Registrar) (retired)	Alive	Sold to second party and now vacant plot
4	Pappathiammal	Benami to Mr.A.Needhimohan, then Co-operative Sub Registrar / Special officer of the Society who is the Deputy Registrar (under suspension now)	Since Died	Sold to second party and building constructed
5	G.Arumaikannu	Close relative of Mr.S.Dhanapal, then Supervisor / Co-operative Sub Registrar (retired)	Since Died	Sold to second party and now vacant site



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DETAILS OF PLOTS SOLD TO THE RELATIVES OF CO-OPERATIVE SOCIETY STAFF

S.No	Name of the Title Holder	Type of Relationship	Present status of	
			Person	Plot
6	M.Logammal	Mother of Mr.M.Ravi, Society Clerk and working in the Society now	Since Died	Sold to second party and building constructed
7	Janagi Ammal	Mother-in-law of Mr.V.Kannan, then Society Secretary (retired)	Since Died	Sold to second party and now vacant plot
8	Maraudhaiyan	Father of Mr.M.Sugumar, Society Accountant and working in the Society now	Since Died	Sold to second party and building constructed

DETAILS OF PLOTS SOLD TO THE INDEPENDENT SOCIETY MEMBERS

S.No	Name of the Title Holder	Type of Relationship	Present status of	
			Person	Plot
9	Nirmala Govindaraj	Not Related	Alive	In her own name and building constructed
10	D.Vijayalakshmi	Not Related	Alive	In her own name and building constructed
11	B.Anbumani	Not Related	Alive	In her own name and building constructed
12	P.Vadivelu	Not Related	Since Died	Sold to second party and building constructed



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13	<i>S.Govindan, then President of Kannan Nagar Residents Welfare Association</i>	<i>Not Related</i>	-	<i>Plot registered in the individual's name for construction of EB collection centre in association name, but no building constructed yet and still vacant.</i>
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14.The affidavit filed by the Registrar of Co-operative Societies (Housing), Chennai, stands recorded.

15.The affidavit further reads about the departmental action initiated as against the erring officials, however, it appears that no punishment has been imposed against those responsible. For one reason or the other, the action has been dropped. The fact remains that by creating bogus records that the lands of the Society were encroached, those lands were sold to the alleged encroachers, who are nothing but the officials and other office bearers or their relatives, at a lower cost than the prevailed guideline value. A fraud has been played upon the Society.

16.Since this Court is exercising power under Section 11 of the Contempt of Courts Act, 1971 and the alleged contemnor is also said to be no more, this Court



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refrains from passing any order, however, expects the Registrar of Co-operative Societies (Housing), Chennai, to take appropriate action for cancelling the sale deeds which were executed fraudulently, by filing necessary suits before the Courts concerned and also to take appropriate action as against those responsible for the same.

With the above observations, this contempt petition stands disposed of.

Index : Yes / No
Internet : Yes
gk

02.12.2022

Note:

Registry is to mark a copy of this order to

The Registrar of Co-operative Societies (Housing),
Tamil Nadu Housing Board,
Nandanam,
Chennai – 600 035.



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B.PUGALENDHI, J.

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