



W.P.No.14002 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.14002 of 2009
and M.P.No.1 of 2009

S.Padmanaban

... Petitioner

Vs.

1. The Chairman Cum Managing Director,
Tamilnadu Housing Board,
Nandanam, Chennai 89.

2. S.Dhanammal

3. P. Susila

4. S. Kumari

5. Narayanan

6. S.Sankar

7. S. Loganathan

8. The Joint Sub – Registrar II,
(In the cadre of District Registrar),
Saidapet, Chennai – 600 015.

9. The Thasildar,
Ambattur Taluk,
Ambattur, Thiruvallur Dt.

... Respondents



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Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Declaration, declaring that the sale deed, document No. 1957/07, executed by the 1st respondent in favour of 6th respondent on 16.08.2007, before the Joint Sub Registrar II, Saidapet, 8th respondent herein, is null and void and consequently direct the 1st respondent to issue allotment order in favour of all legal heir of petitioner's father.

For Petitioner	: Mr.T.Karuna Karan
For Respondents	:
(R1)	: Mr.D.Veera Sekaran for TNHB
(R2 to R4 & R7)	: Mr.V.Anantha Natarajan
(R5)	: No Appearance
(R6)	: Mr.S.Kamedevan
(R8 & R9)	: Mr.G.Krishna Raja, Additional Government Pleader

ORDER

The amended relief sought for in the present writ petition is for a declaration that the sale deed, document No. 1957/07, executed by the 1st respondent in favour of 6th respondent on 16.08.2007, before the Joint Sub Registrar II, Saidapet, 8th respondent herein, is null and void and consequently direct the 1st respondent to issue allotment order in favour of all legal heir of petitioner's father.



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2. The petitioner states that in the year 1990, the first respondent promoted a housing project in Ramapuram, Chennai, under Hire Purchase Scheme. The father of the writ petitioner applied for LIG type independent house. When the scheme was under process, the father of the writ petitioner died on 27.05.1990. Thereafter, the first respondent sent a letter of allotment in favour of the father of the petitioner. However, the petitioner submitted the Legal Heir Certificate and Death Certificate of his father. The first respondent, without conducting any inquiry, granted allotment in favour of the 6th respondent / Mr.S.Sankar, who is none other than the brother of the writ petitioner.

3. Knowing the fact that the allotment was granted in favour of the 6th respondent, the mother of the writ petitioner and the 6th respondent filed W.P.No.34901 of 2006 with a prayer to forebear the 1st respondent from executing the sale deed in favour of the 6th respondent. An interim injunction was granted, subsequently it was modified.

4. However, the 1st respondent executed a sale deed in favour of the 6th respondent on 16.08.2007, before the Joint Sub Registrar II, Saidapet, in Document No.1957 of 2007.



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5. The petitioner subsequently sent a letter to the 9th respondent not to issue patta. The 9th respondent has also issued patta in the name of the 6th respondent subsequently. Therefore, the petitioner has filed a petition to amend the prayer in the present writ petition.

6. The learned counsel for the petitioner mainly contended that the original allottee was the father of the writ petitioner. Therefore, after his demise, the allotment ought to have been transferred in the name of the mother of the writ petitioner. Contrarily to the rules, the allotment was granted in the name of the 6th respondent, the brother of the petitioner and therefore, the writ petition is to be allowed.

7. The learned counsel appearing on behalf of the Tamil Nadu Housing Board, made a submission that the father of the writ petitioner died even before the issuance of the allotment order. The father of the writ petitioner died on 27.05.1990 and the allotment order was issued in his favour on 13.11.1990. Thereafter, the 6th respondent filed an application independently based on the Government Orders and a separate Government Order was passed in G.O.Ms.No.105, Housing and Urban Development Department dated 24.01.1992. Thus, the allotment of the said



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house in favour of the 6th respondent is not based on the original allotment granted in favour of the writ petitioner. The allotment in favour of the 6th respondent was considered independently based on the Government Order and therefore, the writ petition is to be rejected.

8. The learned counsel, appearing on behalf of the 6th respondent, made a submission that the 6th respondent submitted an application afresh and considering his application, the allotment of the LIG house No.C-155, Ramapuram, was granted based on the Government Orders. Accordingly, the 6th respondent paid the land cost and a sale deed was also executed in his favour by the 1st respondent / Housing Board. Consequently, patta also has been granted and the allotment granted in favour of the 6th respondent is no way connected with the allotment granted in favour of the father of the petitioner and the 6th respondent. The original allotment in the name of the father was made after his death and therefore, it is not a valid allotment made in accordance with the Board Regulations.

9. Admittedly, the allotment order in favour of the father of the writ petitioner was issued on 13.11.1990 after his death. The allotment order issued in the name of a dead person is invalid. The said order cannot be



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acted upon. The subsequent application given by the mother of the petitioner was not considered. Meanwhile, the 6th respondent submitted an application for grant of allotment which was considered independently and the allotment was granted in G.O.Ms.No.105, Housing and Urban Development Department, dated 24.01.1991. The said allotment was made under the scheme without reference to the allotment order made in the name of the father of the writ petitioner. Meanwhile, another brother of the writ petitioner / 5th respondent has instituted a Civil Suit which was also dismissed. The father's allotment was made in the year 1990. Now after his death 33 years lapsed. The 6th respondent's allotment was acted upon and he has paid the cost and he is in possession and enjoyment of the property.

10. That being the factum, the relief as such sought for at this length of time cannot be granted. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

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S.M.SUBRAMANIAM. J.,

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