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Writ Petition No.29836 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 26.07.2023

PRONOUNCED ON : 31.07.2023

Coram:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Writ Petition No.29836 of 2005
WPMP Nos.32698 & 32699 of 2005 and
WVMP No.58 of 2009

P.Kailasam

.... Petitioner

Vs.

1. The Commissioner of Labour,
DMS Complex, Teynampet,
Chennai – 600 006.

2. The Managing Director,
Tamilnadu Housing Board,
Nanthanam,
Chennai – 600 035.

3. P.Selvaraj (deceased)
4. P.Rajagopal
5. P.Kumar (deceased)
6. Sukumar
7. M.Chandra Sekar (deceased)
8. Santhi
9. Karthikeyan
10. Kavitha

.... Respondents

[R8 to R10 substituted as Legal representatives of deceased R3 vide order dated 13.02.2023 made in WMP No.885/2023 in WP No.29836/2005 by

ISNBJ]

<https://www.mhc.judgmntindia.com/judis>



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Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in his proceeding Lr.No.L1/51912/03 dt 15.03.05 and quash the same and consequently direct the 1st and 2nd respondents to issue sale deed in respect of the house No.34, measuring 810, sq.ft. situated in Thiru.Vi.Ka.Nagar (Kudiyuruppu) Sembium, Chennai-11, to the petitioner herein.

For Petitioner: : Mr.K.Raja
For Respondents : Mr.L.S.M.Hasan Faizal (for R1)
Additional Government Pleader
Mr.D.Veerasekaran (for R2)
Mr.V.Nicholas (for R3, R8 to R10)
Mr.J.Vinoth (for R4 & R6)
R3, R5 & R7 are deceased.

ORDER

This writ petition has been filed challenging the order passed by the 1st respondent-Commissioner of Labour dated 15.03.2005 whereby he has rejected the representation jointly made by the petitioner along with some of the respondents to allot the house in Plot No.34.

2. Pending writ petition, 3rd respondent died and respondents 8 to 10 were brought on record. It is also represented that respondents 4 and 7 also died.



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3. One Palani who was working as Tinker in the state Transport Corporation, Chrompet was assigned token No.140. At that time a house bearing Door No.34, Thiru.vi.ka.Nagar (Kudiyirupu) Sembium, Chennai - 11 was allotted by the Managing Committee of the Government under subsidized Industrial Housing Scheme, Madras. The said allotment was made by the Labour Officer, Madras-1.

4. The said Palani died on 11.04.1992 and his wife died on 17.03.2003 as could be seen from the Death Certificate filed by the legal heirs. It appears that the petitioner and the respondents 3 to 7 are all brothers and the 3rd respondent is the elder brother. He made a representation to the second respondent for allotment of the house in his favour and also made a common representation since the common representation was not disposed of, they moved writ petition in W.P.No.37591 of 2004 and by an order dated 17.12.2004, this Court has directed the respondents therein to consider the common representation and to pass necessary orders.

5. The Tamil Nadu Housing Board, the 2nd respondent herein has to

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of Labour, DMS Complex, Teynampet. When the representation has been taken up by the 1st respondent pursuant to the order passed in the above said W.P the learned Commissioner of Labour has passed the following order:-

“.....In this list it is seen that for the house number 34 in Thiru Vi Ka Nagar it is noted that Thiru P.Selvaraj is the allottee. On perusal of the list furnished by the Labour Officer I Chennai regarding the allotment made to the houses in Thiru Vi Ka Nagar it is seen that the house No.34 at Thiru Vi Ka Nagar had been allotted to Thir P. Selvaraj through allotment order No.C/892/77 dated 16.12.77. The documents of this Department indicate that the house number 34 in Thiru Vi Ka Nagar had been allotted to Thiru P.Selvaraj even in 16.12.1977. Therefore house number 34 in Thiru Vi Ka Nagar cannot be allotted either to the petitioner or to the respondents 4 to 7”.

6. The learned counsel for the petitioner contended that in the communication sent it is stated that no allotment has been made in favour of the petitioner viz., Selvaraj and also stated that as per records Selvaraj's name is now found and since the original allottee is the father of all the private respondents who died only in the year 1992, there cannot be any allotment in the year 1977 as mentioned in the impugned order and further contended that the other brothers have also given no objection in his favour and relied upon the common representation and also the consent affidavit in the writ petition.



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7. The learned counsel for the 3rd respondent could represent that the original 3rd respondent Selvaraj died and the respondents 8 to 10 were brought on record. He could contend that since the 3rd respondent is also a labour and at the relevant point of time, the original allotment was only in the form of rental, he paid the amount and obtained the allotment of house in his name.

8. The learned Additional Government Pleader has made submissions in support of the impugned order. Heard and perused the written arguments filed by the 4th and 6th respondents.

9. After hearing the learned counsel on either side, I find that the brothers are fighting for the sale deed in respect of house at No.34, Thiru.Vi.Ka Nagar, Sembium, Chennai-11, which has been allotted to the father of all the private parties to the *lis*.

10. The writ petition is filed for a direction in the nature of writ of certiorito, to set aside the proceedings of the 1st respondent and to issue a sale deed in respect of the house in question. When the petitioner made a representation to the Tamil Nadu Housing Board, the 2nd respondent, it has asked to refer to the Commissioner of Labour, the 1st respondent herein.



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11. The Commissioner of Labour, has stated that the petition property has been already allotted to P.Selvaraj viz., the 3rd respondent vide allotment order No.C/892/77 dated 16.12.1977.

12. The writ petition is filed in the year 2005 and hence, I find that the writ petition is filed after a delay of 28 years. As per the impugned order, it appears that the petition property which is a house under the Industrial Housing Scheme, EWS – Labour Quota, was initially allotted to the father of the private parties herein and in the year 1977 by an order No.C/892/77 dated 16.12.1977, it was allotted to P.Selvaraj, the eldest son of the family. It appears that due to family rivalry some of the sons wanted to reagitate the issue with regard to allotment of the house to the eldest son that was made in the year 1977 and now the writ petition has been filed as if there is no such order and their parents have died on the respective dates stated supra.

13. The impugned order is as clear as crystal and it clearly demonstrates the fact that the petition property has already been allotted to the 3rd respondent Selvaraj on 16.12.1977 itself. The petitioner now wanted to reagitate the matter after 28 years and the prayer in the writ petition is hit by delay and latches.

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14. Therefore, at this distance of time, this Court is not inclined to reopen the issue which is already settled in the year 1977 itself and accordingly, the writ petition is dismissed. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

31.07.2023

Index : Yes/No
Speaking order / Non-speaking order
Neutral Citation: Yes/No.
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To

To

1. The Commissioner of Labour,
DMS Complex, Teynampet,
Chennai – 600 006.

2. The Managing Director,
Tamilnadu Housing Board,
Nanthanam,
Chennai – 600 035.



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RMT.TEEKAA RAMAN,J

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Pre-delivery order in
Writ Petition No.29836 of 2005