



WP No.35177 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-03-2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.35177 of 2016

And

WPMP No.30286 of 2016

N.R.Usha Rani

..

Petitioner

VS.

1.The Tamil Nadu Housing Board,
Represented by its Chairman,
No.33, Anna Salai,
Nandanam,
Chennai-600 035.

2.The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Erode Housing Unit,
Surampatti Four Road,
Erode.



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3.G.Purshothaman

(R-3 impleaded vide order of Court dated
10.11.2022 made in WMP No.28575 of
2022 in WP No.35177 of 2016)

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned letter of the second respondent in Letter No.R4/19908/80 dated 02.09.2016 and quash the same as illegal, void, ultravires and direct the respondents to execute and register the necessary Sale Deed in favour of the petitioner in respect of Flat No.D-63, Ground Floor under HIG Perundurai Road Scheme (Erode Neighbourhood Scheme – Phase II) EVK Sampath Nagar, Erode.

For Petitioner : Mr.D.Rajagopal

For Respondents-1 and 2 : Mr.D.Veerasekaran
Standing Counsel for TNHB.

For Respondent-3 : Not Ready in Notice

ORDER



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The order impugned passed by the second respondent dated 02.09.2016 rejecting the claim of the writ petitioner for execution of Sale Deed in the name of the petitioner alone, is under challenge in the present writ petition.

2. It is not in dispute that a flat No.D-63 Ground Floor under HIG Perundurai Road Scheme (Erode Neighbourhood Scheme – Phase II) EVK Sampath Nagar, Erode had been allotted in the name of the petitioner and her husband Mr.Purshothaman. Originally, it was allotted in the name of the husband of the writ petitioner and subsequently the name of the writ petitioner was also included as co-applicant in the allotment and both became the allottee of Flat No.D-63 Ground Floor under HIG Perundurai Road Scheme (Erode Neighbourhood Scheme – Phase II) EVK Sampath Nagar, Erode.

3. It is not in dispute that the Flat cost has been paid in entirety and there is no due to be paid to the Tamil Nadu Housing Board. The



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petitioner submitted an application for execution of Sale Deed in her favour.

The second respondent rejected the said claim on the ground that the allotment stands in the name of the writ petitioner and her husband jointly and therefore, the Sale Deed cannot be executed in her name as per the Rules in force.

4. The learned counsel for the petitioner states that due to family issues, the petitioner and her husband are living separately for long years. The decree of divorce was obtained. The allotment was made in the year 1983. The entire flat cost had been settled and the whereabouts of the husband of the writ petitioner is also not known to her. The husband of the writ petitioner has not raised any objection for execution of Sale Deed in favour of the petitioner and more-so, the Tamil Nadu Housing Board also has not received any such objection letter from the husband of the writ petitioner for the past several years.

5. The petitioner also submitted representation on several



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occasions and furnished all the required documents for the purpose of execution of Sale Deed. That being the factum, there is no impediment for the Tamil Nadu Housing Board to execute the Sale Deed in favour of the writ petitioner.

6. The learned Standing Counsel appearing on behalf of the respondent-Tamil Nadu Housing Board, made a submission that the allotment was originally made in the name of the writ petitioner and subsequently the name of the husband of the writ petitioner was included as co-allottee. Therefore, the Sale Deed is to be executed in the name of the husband of the writ petitioner as well as the writ petitioner jointly.

7. This Court is of the considered opinion that the entire cost of the flat had already been settled by the petitioner. The petitioner obtained decree of divorce against her husband long back and his whereabouts also is not known to the writ petitioner. The husband of the writ petitioner has not filed any objection either before the Tamil Nadu Housing Board or before



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any other Authority and the allotment was made in the year 1983. The petitioner is unable to get the Sale Deed executed in her favour, despite the fact that the flat cost had already been paid to the Tamil Nadu Housing Board.

8. Considering the facts and circumstances, this Court is of the considered opinion that the Tamil Nadu Housing Board can obtain an appropriate sworn affidavit or undertaking or indemnity bond, as the case may be and accordingly execute the Sale Deed in favour of the writ petitioner.

9. Accordingly the impugned order passed by the second respondent in Letter No.R4/ 19908/80 dated 02.09.2016 is quashed and the respondents are directed to execute the Sale Deed in favour of the petitioner by obtaining necessary Indemnity Bond or otherwise, within a period of two months from the date of receipt of a copy of this order.



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10. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Speaking Order/Non-Speaking Order.

Neutral Citation : Yes/No.

Internet : Yes/No.

Index: Yes/No.

Svn

To

1.The Chairman,
Tamil Nadu Housing Board,
No.33, Anna Salai,
Nandanam,
Chennai-600 035.

2.The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Erode Housing Unit,
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S.M.SUBRAMANIAM, J.

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