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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.20806 of 2021

Hemavathy

.. Petitioner

Vs.

1.The Tamil Nadu Housing Board,  
Rep by its Executive Engineer &  
Administrative Officer, Special Division – I,  
Anna Nagar Western Extension,  
Chennai – 600 101.

2.M/s.Food Corporation of India,  
Office of the Joint Manager,  
(Port Operations),  
Chennai House, No.7, Esplande,  
Chennai – 600 001.

3.N.K.Murali

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2<sup>nd</sup> and 3<sup>rd</sup> respondents to issue No Objection Certificate and consequently to direct the 1<sup>st</sup> respondent to execute the Sale Deed in favour of the petitioner based on the petitioner representation dated 24.08.2021.



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2

For Petitioner

.. Mr.K.Raja Shrinivas

for Mr.S.Satheeskumar

For R1

.. Mr.D.Veerasekaran,

Standing Counsel

### **ORDER**

This Writ Petition has been filed in the nature of a Mandamus seeking a direction against the 2<sup>nd</sup> and 3<sup>rd</sup> respondents namely, Food Corporation of India, Chennai and N.K.Murali, who was the husband of the petitioner herein to give No Objection Certification and consequently, direct the 1<sup>st</sup> respondent / the Tamil Nadu Housing Board, to execute a Sale Deed in favour the petitioner based on the representation given on 24.08.2021.

2.The petitioner and the 3<sup>rd</sup> respondent herein had been involved in a marital relationship. There were also two children born to them. The 3<sup>rd</sup> respondent was working in the 2<sup>nd</sup> respondent namely, Food Corporation of India. At that particular point of time, the petitioner had applied for allotment of a house and the 1<sup>st</sup> respondent / Tamil Nadu Housing Board, had allotted HIG Twin House No.186, Anna Nagar West on outright basis



by executing a lease cum sale agreement. Originally, the allotment was in the name of the petitioner. However, it was stated that the 3<sup>rd</sup> respondent should also be joined as co-allottee and accordingly, the 3<sup>rd</sup> respondent had also joined as a co-allottee. But then, the 3<sup>rd</sup> respondent for reasons best known to him had run away from the marital house and disappeared. The petitioner is not able to locate him as on date. He has also not come forward to claim any right. The petitioner, as a single mother, bringing up the two children had also filed H.M.O.P.No.3351 of 2012 on the file of the II Additional Family Court, Chennai and had also obtained dissolution of the martial relationship.

3.Since the entire amounts payable towards the purchase of the house had been paid, the petitioner sought a Sale Deed to be executed by the 1<sup>st</sup> respondent. This also required a No Objection Certificate, to be given by the 2<sup>nd</sup> respondent / employer of the 3<sup>rd</sup> respondent.

4.In the counter affidavit of the 2<sup>nd</sup> respondent, it had been stated as follows:



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*“7.I state that the above said N.K.Murali, the 3<sup>rd</sup> respondent herein, had already attained superannuation on 31.01.2010. And the Food Corporation of India has also already settled all the terminal benefits to the 3<sup>rd</sup> respondent and there is no amount due by the 3<sup>rd</sup> respondent to the Food Corporation of India on any account including on HBA. And the 2<sup>nd</sup> respondent has no objection for the execution of the sale deed in favour of the petitioner by the 1<sup>st</sup> respondent if the 1<sup>st</sup> respondent fully satisfied itself regarding the claim of the 1<sup>st</sup> petitioner.”*

5.The 1<sup>st</sup> respondent had also filed a counter affidavit, where, quite naturally they held out that since the allotment had been in the joint names of the petitioner and 3<sup>rd</sup> respondent, they require a No Objection Certificate from the 3<sup>rd</sup> respondent. Since the 3<sup>rd</sup> respondent is not available, and in spite of the notices issued to the addresses known to the petitioner and the address known to the 2<sup>nd</sup> respondent, had not appeared before this Court and had taken a conscious decision to abstain from this Court, I hold that no purpose would be served by holding over the writ petition.



6.The following directions are issued:

(i).The 1<sup>st</sup> respondent is directed to executed a Sale deed with respect to the aforementioned house in favour of of the petitioner alone.

(ii).The petitioner has to execute an indemnity that, if ever the the 3<sup>rd</sup> respondent surfaces at some point of time and claims right, she would ensure that, she will handle that particular situation without any adverse effect on the 1<sup>st</sup> respondent for having executed the sale deed.

(iii)The indemnity bond may be in the manner as required by the 1<sup>st</sup> respondent, absolving the 1<sup>st</sup> respondent of any legal proceedings and of any liability to the 3<sup>rd</sup> respondent.

(iv)On obtaining such indemnity, the 1<sup>st</sup> respondent may execute the sale deed on or before six weeks from the date of receipt of a copy of this order.

7.With the above observations, this Writ Petition stands allowed. No costs.

22.02.2023

Index:Yes/No  
Internet:Yes/No  
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To  
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7

**C.V.KARTHIKEYAN,J.**

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