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W.P. No. 30170 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 30170 of 2022

Bala Palaniyandi @ Balamani

... Petitioner

-VS-

1. Registrar of Co-operative Societies (Housing),
No.48, Ritherton Road,
Vepery,
Chennai – 600007.
2. The Deputy Registrar of Co-operative Societies (Housing),
Chengalpattu Region,
Chengalpattu.
3. The Secretary,
The Nanganallur Co-operative Building Society Limited,
Registration No.G.1351,
1st Main Road,
Nanganallur,
Chennai – 600061.

Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the Second Respondent in Letter bearing Na.Ka. 1184/2018/Oo, dated 14.11.2022 and quash the same as arbitrary, illegal and without any basis and consequently direct the Respondents herein to execute sale deed in the name of the Petitioner for the plot measuring 4680 Sq.ft bearing Plot No. C-98 in



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Nanganallur Co-operative Building Scheme Colony, together with a building thereon, comprised in Survey No.26/2 of Nanganallur Village, Alandur Taluk, Chennai District in pursuance of the sale agreement dated 11.11.1979 entered between the Petitioner and the Third Respondent society. (Prayer amended vide order dated 25.07.2023 in W.M.P. No. 4377 of 2023).

For Petitioner : Mr. P.S.Prabu

For Respondents : Mr. S.Arumugam,
Government Advocate (for R1 & R2)

Ms. M.Jayanthi (for R3)

ORDER

Heard Mr. P.S.Prabu, Learned Counsel for the Petitioner, Mr. S.Arumugam, Learned Government Advocate appearing for the First and Second Respondents, Ms. M.Jayanthi, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that the Third Respondent, viz., Nanganallur Co-operative Building Society Limited, had allotted the land bearing Plot No. C-98 measuring an extent of 4680 Sq.ft in Nanganallur



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Co-operative Building Scheme Colony, 45th Street, Nanganallur, Chennai in

favour of one S.Lakshmikanthan, who had constructed a house and rest-room and dug a well in that plot and was residing there, which was assessed to property tax in his name. Subsequently, the said plot has been transferred at the request of the said S.Lakshmikanthan made in his letter dated 22.10.1979 in favour of the Petitioner by the Third Respondent by letter dated 26.10.1979 and an agreement dated 11.11.1979 has been executed between the Petitioner and the Third Respondent in that regard, apart from a deed dated 15.11.1979 executed by the said S.Lakshmikanthan in favour of the Petitioner as an abundant caution to perfect her title over that property. Though the Petitioner made improvements and had been continuously residing in that property, she had not obtained sale-deed and had made a representation dated 11.09.2022 for the same. Thereafter, the Petitioner has filed this Writ Petition seeking a direction to the Third Respondent to execute sale-deed in her name for that property. However, after the filing of the Writ Petition, the Second Respondent by Proceedings No. Na. Ka. 1184/2018/Vu dated 14.11.2022 had cancelled the allotment of the said plot in favour of the Petitioner citing that commencement of construction had not taken place within six months and completed within one year from the date of allotment as per the bye-laws of the Co-operative Society of the Third Respondent and in pursuance of the order dated 25.07.2023 in



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W.M.P. No. 4377 of 2023), the relief sought in the Writ Petition has been amended for challenging the said order.

3. There is nothing in the impugned order or in the Counter-Affidavit filed by the Second and Third Respondents to establish that before passing the impugned order cancelling allotment of plot in favour of the Petitioner that any show-cause notice has been issued to her calling for explanation from her with supporting materials relied in that regard. It is needless to point out here that the Hon'ble Supreme Court of India in *State of Orissa -vs- Binapani Dei* (AIR 1967 SC 1269) has categorically ruled that any administrative decision entailing adverse civil consequences must be made consistently with the rules of natural justice by informing the person concerned of the case against him with the evidence in support thereof and after giving him an opportunity of being heard for meeting or explaining such evidence. Viewed from that perspective, it was certainly incumbent upon the Second Respondent to have informed the Petitioner about the proposed cancellation of allotment of plot and in the absence of any such exercise having been undertaken by the Second Respondent in that regard, it is not possible to sustain impugned action of the Second Respondent in straightaway cancelling the allotment of plot in favour of the Petitioner in this case.



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4. In view of the foregoing discussion, this Court without expressing any view on the merits of the controversy involved, passes the following order:-

- (i) the impugned Proceedings No. Na. Ka. 1184/2018/Vu dated 14.11.2022 issued by the Second Respondent is set aside;
- (ii) if it is intended to pass any fresh order of cancellation, a show-cause notice shall be issued by the concerned authority to the Petitioner of the proposed action with supporting materials relied and atleast 10 working days shall be granted to submit her explanation in that regard;
- (iii) an enquiry shall be conducted affording full opportunity of personal hearing to all persons concerned including the Petitioner to explain their respective positions in that regard;
- (iv) a reasoned order shall be passed dealing with each of the contentions raised by the contesting parties on merits and in accordance with law and the decision taken communicated under written acknowledgment;
- (v) if it is not intended to cancel the allotment of plot in favour of the Petitioner, the Third Respondent shall immediately examine the representation dated 11.09.2022 made by the Petitioner seeking execution of sale-deed for the property;
- (vi) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the



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Petitioner requiring the same to be furnished within a time frame of not less than 10 working days for the same;

- (vii) depending upon its outcome, further action for execution of sale-deed and its registration shall be taken in accordance with law within a period of 30 days from the date of receipt of all requisites; and
- (x) the report of such compliance shall be filed before the Registrar (Judicial) of the Court.

In the result, the Writ Petition is disposed on the aforesaid terms. No costs.

08.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 26.03.2024.

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To

1. Registrar of Co-operative Societies (Housing),
No.48, Ritherton Road,
Vepery,
Chennai – 600007.
2. The Deputy Registrar of Co-operative Societies (Housing),
Chengalpattu Region,
Chengalpattu.



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3. The Secretary,
The Nanganallur Co-operative Building Society Limited,
Registration No.G.1351,
1st Main Road,
Nanganallur,
Chennai – 600061.

Copy to

1. The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.
2. Bala Palaniyandi @ Balamani,
W/o. Palaniyandi,
C-98, NCBS Colony,
45th Street,
Nanganallur,
Chennai – 600 061.



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P.D. AUDIKESAVALU, J.

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