



WP No.31918 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.31918 of 2023
and WMP Nos.31501 and 31502 of 2023

M.Selvamoorthy

.. Petitioner

-vs-

1. The Registrar,
The Debt Recovery Appellate Tribunal,
Chennai.

2. The Authorised Officer,
Axis Bank, R.A.C, Arcot Plaza,
Old No.38, New No.165,
Arcot Road, Kodambakkam,
Chennai-600 024.

3. N.Sowrirajan

4. Neelamegam

5. M/s Annapoorani Shelters Private Limited,
Rep by its Managing Director, S.Nachiappan,
Block L-8, Flat-F, Sarvamangala Colony,
Ashok Nagar, Chennai-600 083.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Certiorari to call for the records relating to the



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order dated 14.09.2022 made in RA (SA)160/2018, on the file of the
1st respondent herein and to quash the same.

For the Petitioner : Ms.G.Sumitra

* * * * *

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Ms.G.Sumitra, learned counsel for the petitioner.

2. The possession notice is issued for an area of 362 sq. feet of Undivided share. The petitioner has sold the property under the sale deed dated 01.09.2014. The contention of the learned counsel for the petitioner is that the petitioner has not been paid with the total amount of consideration. A civil suit is also filed by the petitioner for cancellation of the sale deed as the entire amount has not been paid. The petitioner had filed Securitisation Application before the Debts Recovery Tribunal questioning the possession notice dated 28.11.2017. The Debts Recovery Tribunal allowed the Securitisation



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Application. The bank preferred an appeal before the Debt Recovery Appellate Tribunal. The Debt Recovery Appellate Tribunal allowed the appeal filed by the bank.

3. The learned counsel submits that the Debts Recovery Tribunal had properly appreciated the contentions of the present petitioner. The undivided share was sold, however, the amount was not received, the construction has not been completed, as such, the builder/developer has duped the petitioner.

4. It needs to be considered that the petitioner has already relinquished his right and interest in the property by way of a registered sale deed. The petitioner has also filed a civil suit for cancellation of the sale deed. The possession notice could not have been challenged as the petitioner has sold the property and subsequently the security interest is created by the one to whom the property is sold. As the petitioner has already filed a civil suit, he may take steps as may be maintainable and permissible under law.



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With these observations, the writ petition stands disposed of.
There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
sra

To

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(sra)

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