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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.758 of 2012

T.Parameswari

...Appellant

/Vs./

1.The Executive Engineer cum
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai-10.

2.T.Lajapthy Roy

...Respondents

[R2 is impleaded vide Court order dated 08.06.2023]

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to
set aside the order made in W.P.(MD)No.2648 of 2012 dated 27.08.2012
on the file of this Court.

For Appellant	: Mr.K.Govindarajan
For R1	: Mr.A.Kannan
	Standing Counsel
For R2	: No Appearance



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JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

Heard Mr.K.Govindarajan, learned counsel for the appellant and Mr.A.Kannan, learned Standing Counsel for the first respondent. None appears for the second respondent. In any event, that will not stand in the way of this Court in disposing the writ appeal by way of the present order.

2.The prayer in the writ petition is for a certiorari as against the order of the first respondent, dated 05.09.2011 and a consequential direction for execution of sale deed in favour of the petitioner in respect of the property comprised in HIG-91, B-Type, Special Division Ellis Nagar, Madurai ('property'/ 'property in question').

3.The writ petition came to be disposed by the learned Single Judge on 27.08.2012. *Inter alia*, the learned Single Judge had found that the transfer of the property can be effected only in favour of the legal



heirs of the owner of the property, since the property stood in the name of one B.Teekaram. Hence, order dated 05.09.2011 to the effect that the transfer will be effected only in favour of the legal heirs of B.Teekaram, was confirmed.

4.The writ petitioner has also argued that the property in question was in possession and enjoyment of said B.Teekaram till his demise on 05.12.1999 and even during his life time and in a sound state of mind, he had executed a registered deed in favour of the writ petitioner.

5.However, that contention did not find favour with the learned Single Judge, who was of the view that proper action would have to be taken by the writ petitioner seeking succession as well as other appropriate remedies and mere reliance on the document would have no effect. It is against that order, that the present writ appeal is filed.



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6. Pending writ appeal since 2012, some water has flown under the bridge. Learned counsel for the appellant has filed a petition on 06.05.2023 averring that the legal heirs of B.Teekaram, being his daughter by name Dr.V.T.Sabitha Devi had passed away on 06.12.2016 and one of the legal heirs namely Shri.T.Lajapathi Roy is willing to consent for execution of direct sale deed by Tamil Nadu Housing Board in favour of the appellant.

7. It is unclear as to whether Shri T.Lajapathi Roy is the legal heir of B.Teekaram or Dr.V.T.Sabitha Devi. Be that as it may, the question of succession is one of fact, that would have to be determined after taking into account various documents including legal heirship certificate, opposition by third parties, if any and other documents.

8. This Court sitting in writ appeal is neither inclined nor in a position to undertake this exercise. Hence, we find no infirmity in either impugned order, dated 05.09.2011 or the order of the learned Single Judge dated 27.08.2012 and confirm both.



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9. Needles to say, the appellant is at liberty to approach the first respondent with all necessary documents and satisfy him in respect of her claim to the property in question.

10. This Writ Appeal is dismissed with liberty as above. There shall be no order as to costs.

[A.S.M.J.] & [R.V.J.]
03.07.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To
The Executive Engineer cum
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai-10.



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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Order made in
W.A.(MD)No.758 of 2012

Dated:
03.07.2023