



W.P.(MD) No.4056 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

**W.P.(MD) No.4056 of 2020
and
W.M.P.(MD) Nos.3431 and 3433 of 2020**

S.Jessima Sekar

... Petitioner

/vs./

1.The Managing Director,
Tamil Nadu Housing Board,
493, Annasalai,
Nandanam,
Chennai 35.

2.The Executive Engineer cum Administrative Officer,
Tamil Nadu Housing Board,
Tirunelveli Division,
Kamarajarsalai,
Tirunelveli 11.

3.The Assistant Executive Engineer,
Tamil Nadu Housing Board,
Kamarajarsalai,
Tirunelveli.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the 2nd respondent in letter H 2/4677/2002 dated 31/01/2020 and quash the same and consequently direct the respondent to execute the sale deed in favour of the petitioner in respect of the C-9 MIG Flat situated at Sankaraperi, SMT Scheme, Thoothukudi after receiving the balance sale consideration.

For Petitioner : Mr.C.Jegannathan

For Respondents : Mr.S.Velmurugan
Standing Counsel

ORDER

The above writ petition is filed for the issue of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings issued by the second respondent in letter H 2/4677/2002 dated 31/01/2020, quashing the same and directing the respondent to execute the sale deed in favour of the petitioner in respect of the C-9 MIG Flat situated at Sankaraperi, SMT Scheme, Thoothukudi after receiving the balance sale consideration.



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2.It is the case of the petitioner that in the year 1996, the respondent Board had issued a notification stating that they would be allotting houses to the middle class people under SMT Sankarperi 129 scheme. It is her contention that some of the houses were allotted to various persons and some of them remained unsold. In these circumstances, the Government of Tamil Nadu had issued the Government Order dated 22.01.2001 deciding to sell the remaining unsold houses as per the price fixed as per earlier notification of the year 1996.

3.The petitioner would submit that she had applied for allotment on 14.01.2003 by paying a sum of Rs.100/- towards registration charges and paying a sum of Rs.40,000/- as advance in favour of the Board. At the time of her application, the cost of the land was fixed at Rs.39,000/- and the building cost was fixed at Rs.1,36,500/-, thereby making a total cost of Rs.1,75,000/-.

4.The second respondent had thereafter issued an allotment order dated 14.01.2013 in respect of the house bearing No.C9 MIG house. The petitioner was directed to pay the balance in 168 installments at the rate of Rs.2,275/- per month. Possession was also handed over to the petitioner. The petitioner would submit



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that she was not able to pay the balance installments on account of the sudden financial crisis and on 21.01.2011, the second respondent had issued a demand notice directing the petitioner to pay a sum of Rs.3,28,491/- after deducting a sum of Rs.42,275/-, which was paid towards the advance sale consideration. The petitioner would submit that pursuant to the said demand, she has also paid a sum of Rs.78,000/- to the respondent Board on 13.02.2012.

5.After the payment of the said amount, the petitioner had approached the respondents on 19.11.2013 to pay the balance amount. However, her request was rejected stating that the receipts in her favour were created. A complaint was made by her to the respondents 1 and 2, based on which proceedings were initiated against the said Vadivel. However, the second respondent had also proceeded to issue the impugned order. Therefore, the petitioner is before this Court.

6.Heard the learned counsels appearing on either side.



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7.The receipt showing the payment of Rs.40,000/- and the subsequent receipt for a sum of Rs.78,000/- are stated to be created documents. Even the alleged demand notice dated 21.02.2011 is also stated to be a created document. The receipt dated 14.01.2003 for a sum of Rs.40,000/- would show that the amount has been corrected in figures. However, the amount in words remained as Rs.100/-. The respondents have produced the copies from the files of the respondents. The letter of demand does not contain the letter number, which is normally affixed in every correspondence of the respondents.

8.Be that as it may, this Court sitting in Article 226 of the Constitution of India cannot go into the evidentiary value of the documents or come to the conclusion as to whether the same is a forged document or an authentic document. The petitioner has to move the civil Court, if she is aggrieved by the action of the respondents, particularly when it is her case that she continues to be in possession of the property.

9.In the result, the Writ Petition is dismissed. The petitioner is directed to approach the Civil Court since serious allegation of fraud has been made by the



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Board against her, which she refused. The petitioner already has the benefit of stay throughout not to disturb her possession. Therefore, the stay shall continue till the suit is instituted by the petitioner. It is made clear that the petitioner shall positively file a civil suit within a period of four weeks from today. In case, the suit is not instituted within the said period, the stay shall stand vacated automatically without further reference to this Court. It is needless to state that the time taken for prosecuting this writ petition would be excluded while calculating the period of limitation. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

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Note : Issue order copy on 16.06.2023



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P.T.ASHA, J.

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