



W.P. (MD).No.12390 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

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DATED: 16.11.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

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1. Mariammal (Died)

2. N.Ravi

*(*Petitioner is impleaded vide Court order, in
WMP(MD) No.22511 of 2023, dated 08.11.2023)*

... Petitioners

Vs

1. The District Collector,
Madurai District, Madurai.

2. The Superintending Engineer,
Tamil Nadu Slum Clearance Board,
Madurai Circle, No.169,
K.K.Nagar Main Road, Madurai - 20.

3. N.Sakthivel

4. N.Pandi

5. Gurusamy

6. Karthikeyan

7. Maladevi

8. Muthulakshmi



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9. Lokesh Pandi

10. Balaji

(R4 to R10 are impleaded vide Court order in WMP(MD)No.22511 of 2023, dated 08.11.2023).

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the 2nd respondent to receive the balance consideration amount from the petitioner and to issue No Due Certificate and to execute a Sale Deed in favour of the petitioner in respect of the house site No.240 in T.S.No. 2720 at Jawaharpuram, K.Pudur, Madurai and consequently direct the 2nd respondent to dispossess the 3rd respondent from the above house within a time frame that may be fixed by this Court.

For Petitioners : Mr. K.Navaneetharaja

For Respondents : Ms.D.Farjana Ghoushia (R1)
Special Government Pleader

Ms.S.Latha (R2)

Mr.Nirmal (R3)

ORDER

This Writ Petition has been filed for the issue of writ of mandamus, directing the second respondent to receive the balance consideration from the petitioner and to issue No Due Certificate and consequently, execute the sale deed in favour of the petitioner with respect to the subject property.

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2. During the pendency of this writ petition, the petitioner died and her legal representatives have been brought on record. Accordingly, the substituted petitioner and the respondents 3 to 10 are the legal representatives of the original petitioner.

3. The grievance that was expressed by the petitioner was that, the subject property was allotted by the Slum Clearance Board in the year 1998. While so, the husband of the petitioner had executed a settlement deed in favour of the third respondent without any title or right and by virtue of the same, an attempt was made to interfere with the possession and enjoyment of the property. Therefore, the petitioner made representations to the Slum Clearance Board to receive the balance sale consideration and to execute the sale deed in her favour and to restrain the third respondent from claiming any title over the property and interfering with the possession and enjoyment of the same. Since the representations were not considered, the present writ petition has been filed before this Court.

4. The second respondent has filed a counter affidavit.



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5.The second respondent has taken a stand that the allotment was made only in favour of the petitioner and not in favour of the husband of the petitioner. It is further stated that the petitioner has not paid the entire land cost to the Board and hence, No Due Certificate cannot be issued to the petitioner. It is further stated that the third respondent has filed a suit in O.S.No.237 of 2015 before the Principal District Munsif Court, Madurai seeking for the relief of permanent injunction as against the other family members and the suit was pending. That apart, an ex-parte decree was also passed and the application filed to set aside the ex-parte decree was dismissed, against which, C.M.A.No.1 of 2021 was filed and the same was pending. In the meantime, the petitioner also died. In view of the same, under these circumstances, the Board has taken a stand that they are not in a position to execute the sale deed.

6.Heard, the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the first respondent and the learned counsels appearing for the respondents 2 and 3.



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7.The learned counsel for the substituted petitioner submitted that the original petitioner Mariammal had executed a Will, dated 05.07.2022 in favour of her great grandson Gunaseelan, S/o.Pandi.

8.The learned Counsel for the third respondent submitted that a settlement deed has already been executed by his grandfather Nachimuthu and the document was registered as Doc.No.3962/2007. Pursuant to the execution of the document, the third respondent is in possession and enjoyment of the property. The learned counsel further submitted that a suit for permanent injunction was filed against the other family members; the suit was decreed ex-parte; the application filed to set aside the ex-parte decree was dismissed; the same has been challenged by way of appeal before the competent Civil Court and the same is pending. The learned Counsel submitted that in the light of the pendency of the civil proceedings, no direction can be issued to the second respondent Board to execute a sale deed.

9.This Court has carefully considered the submissions made on either side and perused the materials available on record. In the instant



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case, there is no dispute with regard to the fact that the allotment was made only in favour of Mariyammal, who was the original petitioner in this writ petition. This has been made clear by the Board in the counter affidavit filed before this Court and the same was also reiterated by the learned Standing Counsel appearing on behalf of the Slum Clearance Board. When such a stand has been taken by the Authority, who has allotted the property, it is not known as to how the grandfather of the third respondent can execute the settlement deed in favour of the third respondent, with respect to the subject property. This settlement deed will not in any way bind the Slum Clearance Board and they have to strictly go by the original allotment made by them.

10.The learned Standing Counsel appearing for the second respondent submitted that since the original allottee Mariammal has died, all the legal heirs of Mariyammal must approach the Slum Clearance Board and all the dues must be settled and only thereafter, settlement deed will be executed by the Slum Clearance Board.

11.Insofar as the suit that was filed by the third respondent, it



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was merely a suit for bare injunction between the family members and that will not in any way postpone the consequential action to be taken by the Slum Clearance Board, based on the original allotment made by the Board. At the best, this suit will confine itself only to the possession over the subject property.

12.In view of the above discussions, it is left open to the legal heirs of the deceased Mariammal to approach the second respondent and pay the entire amount that is due and payable. On receipt of the same, the second respondent shall execute the sale deed in the name the legal heirs of the deceased Mariammal. After the legal heirs approach the second respondent and pay the sum that is due and payable, the second respondent shall complete the process, within a period of four weeks thereafter.

13.This writ petition stands disposed of in the above terms. No costs.

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NCC : Yes/No
Internet : Yes/No

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N.ANAND VENKATESH, J.

PNM

**ORDER IN
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