

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :28.02.2023

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THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.P.(MD)No.12999 of 2014

M.Valarmathi

... Petitioner

Vs.

- 1.The State of Tamilnadu,
Rep by its Principal Secretary,
Cooperation, Food and Consumer
Protection Department,
Fort St. George, Chennai 600 009.
- 2.The Registrar of Co-operative
Societies (Housing),
Office of the Tamil Nadu Housing Board,
Nandanam, Anna Salai,
Chennai-35.
- 3.The Deputy Registrar of Co-opertive
Societies (Housing),
No.15, Melur Main Road,
Opposite to Thiruvalluvar Depot,
Madurai 625 020.
- 4.The President/Special Officer,
79/1145, Dindigul Cooperative,
Building Society Limited,
Narayana Iyer Thirumana Mandapam,

Vivekananda Nagar,
Dindigul Town.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 to 3 to take action against the fourth respondent and hand over the house site measuring 2400 sq.ft., in Plot No.61, Ragava Kootturavu Nagar, Alamarathupatty Village, Dindigul Taluk and District or any other alternative site in the same scheme or any other scheme to the petitioner.

For Petitioner :Mr.M.Saravanan

For Respondents :Mr.SRA.Ramachandran
Additional Government Pleader for R1 to R3

:Mr.R.R.Kannan for R4

ORDER

This writ petition has been filed seeking for a Mandamus, directing the respondents 1 to 3 to take action against the fourth respondent and hand over the house site measuring 2400 sq.ft., in Plot No.61, Ragava Kootturavu Nagar, Alamarathupatty Village, Dindigul Taluk and District.

2. The learned counsel for the petitioner would submit that the petitioner is a member of the fourth respondent Co-operative Society and has been assigned with a membership No.1728. The fourth respondent claimed to have promoted house site in Dindigul District in various survey numbers at Alamarathupatty village. The petitioner had applied for allotment of site and was allotted a plot in plot No.61 by Board Resolution No.6, dated 16.10.1995. The petitioner has also paid the entire sale consideration of a sum of Rs.16,800/- on various dates. In spite of himself paying the amount, no sale deed has been executed by the Society in favour of the petitioner. Therefore, he had also issued a representation to the respondents 1 to 3 and no action has been initiated. He would submit that having received the sale consideration, the respondents are duty bound to execute a sale deed for the plot allotted. Hence, he approached this Court with the aforesaid prayer.

3. Countering his arguments, the learned counsel appearing for the fourth respondent would submit that the Society has dropped the proposal as it was not able to get a layout sanctioned from the appropriate authority

for various reasons and hence, a resolution was also passed to that effect. On 24.11.2002, dropping the project, the petitioner's husband was also a signatory and had also participated in the Board meeting that was conducted on 24.11.2002. Suppressing all these material facts, the petitioner had approached this Court by way of this writ petition after more than a period of 12 years. He would also further submit that when the Society had taken a decision to drop the project and the petitioner being the member of the Society and also having taken part in the Board Proceedings which decided to drop the proceedings, the petitioner cannot now turn around and seek for registration of the plot. At most, the petitioner would be entitled to refund of the amount that has been paid by her. He would further submit that as regards all members, they have got refund of money paid to the Society and only the petitioner had not got refund of the money. He would further submit that they are ready and willing to refund Rs.16,800/- paid by the petitioner and also produced the Demand Draft dated 27.02.2023 drawn on the Union Bank of India, Dindigul. Hence, he prays to reject the writ petition.

4. I have considered the rival submissions made on either side.

5. When the demand draft was produced to the learned counsel for the petitioner, the learned counsel for the petitioner had refused to receive the same and contended that when the plot has been allotted to him, it is for the Society to get planning permission and execute the sale deed in favour of the petitioner.

6. It is an admitted fact that the fourth respondent Society wanted to promote housing plots for the benefit of its members and had acquired various parcels of land. The planning permission could not be acquired as per law due to various constraints. As the planning permission could not be obtained, the members of the society had passed the resolution dropping the project. The petitioner through her husband had participated in the said meeting of the members of the Society, and her husband is also a signatory to such a resolution. When such a resolution has been passed by the Society, the petitioner being the member of the Society, cannot now seek to direct the respondents 1 to 3 to take action against the fourth respondent for not

executing the sale deed in her favour and also consequently seek the fourth respondent to hand over possession of the property allotted to her. The petitioner had also not come with clean hands to the Court. Even though she had made an averment that the meeting was held on 24.11.2002, she had subsequently made an averment that in the meeting, they were informed that there was a difficulty in obtaining the planning permission and that assurance has been given to obtain planning permission and hand over the plots. This is contrary to the resolution that has been recorded during the meeting. The resolution passed on 24.11.2002 has been placed on record by the learned counsel for the fourth respondent. The resolution has been passed by the members of the society to drop the project and in resolution No.3, it was decided to keep the amount in a fixed deposit in the name of the petitioner which would carry interest. Therefore, this writ petition will have to be rejected as the petitioner had approached this Court by suppressing the material facts and had come to this Court with unclean hands. Since the 4th respondent Society had already produced the demand draft in the name of the petitioner for the entire sale consideration and it has been refused to be received by the learned counsel for the petitioner, I direct

the fourth respondent Society to send the demand draft to the petitioner through registered post within a period of two weeks from the date of receipt of a copy of this order.

7.In fine, the writ petition is dismissed with a direction to the fourth respondent Society as aforesaid. There shall be no order as to costs.

28.02.2023

NCC :Yes/No
Internet :Yes/No
Index : Yes / No
sbn

To

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The State of Tamilnadu,
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K.KUMARESH BABU, J.

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