



W.P(MD)No.14040 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14040 of 2014
and
M.P.(MD)No.1 of 2014

K.Meenakshi

... Petitioner

Vs.

1.The Government of Tamilnadu,
Rep. by its Principal Secretary,
Municipal Administration and Water
Supply Department,
Fort St.George, Chennai – 600 009.

2.The Director of Municipal Administration,
Chepauk, Chennai – 600 005.

3.Madurai Corporation,
Rep. by its Commissioner,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Mathil/Ma.4/26488/03 dated 11.07.2014 quash the same and direct the 3rd Respondent to execute the sale deed in favour of



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the petitioner for the house bearing Door No.38, Block 1, Avaniyapuram Corporation Colony, Madurai.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.N.Satheesh Kumar,
Addl. Government Pleader for R1 & R2.
Mr.R.Murali for R3.

ORDER

Heard the learned counsel on either side.

2.The basic facts are not in dispute. The petitioner's husband/Kannan joined Madurai Corporation as Fitter. He died while in service on 01.05.1979. When he was in service, he was allotted a low income group tiled house bearing Door No.38, Avaniyapuram Corporation Colony. Following her husband's death, the petitioner was working in Corporation as a last grade servant. Every month, a small sum was deducted from the salary. It appears that the arrears have mounted and the petitioner had to pay a further sum of Rs.6,500/- towards final costs of the house. She remitted the said amount on

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04.06.1993. In fact, on 08.06.1993, proceedings came to be issued by the Corporation Commissioner calling upon the allottees / purchasers to pay the balance amount. Copy of the proceeding has been enclosed in the typed set of papers. The petitioner's husband's name is figuring at Serial No.12. It is stated that the allottee had to pay a further sum of Rs.6,500/-. It is not in dispute that the said amount was already paid on 04.06.1993. The grievance of the petitioner is that notwithstanding the said payment, the Corporation had not executed the sale deed. In the typed set of papers, the petitioner had enclosed a copy of the indenture dated 12.05.1992 whereby another titled house situated in the same locality was sold to one Arul Raj who was working as drainage Inspector in the Corporation. The petitioner retired from service in the year 2010. Since the petitioner was asked to vacate, the present writ petition has been filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.



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4.The Madurai Corporation has filed counter affidavit and the learned standing counsel took me through its contents. His primary contention is that the writ petition suffers from the vice of laches. In respect of a cause of action that had taken place some three decades ago, a writ petition cannot be entertained. He also points out that there has been a ban on the sale of corporation government properties. He drew my attention to G.O.(Ms)No.730, Rural Development and Local Administration Department, dated 14.04.1976 in this regard. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. The objection founded on laches does not appeal to me. The petitioner's husband was employed as a Fitter. The petitioner was employed as a last grade servant. It is true that the writ petition has been filed after a lapse of almost two decades after the cause of action arose. But it is well settled that the doctrine of laches will be invoked only in those cases where the respondents have suffered prejudice on account of belated filing of writ petition and there has been intervention



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of third party rights. The learned counsel for the petitioner asserts that even as on date the petitioner is in occupation of the petition mentioned tiled house.

6.The petitioner's husband was allotted a tiled house when he was in service on certain terms and conditions. The said conditions have been fulfilled. All that the petitioner had to pay was a sum of Rs.6,500/-. This amount was paid in the year 1993 itself. Indenture effecting transfer of sale were executed in favour of similarly placed allottees. Copy of one such indenture has been enclosed in the typed set of papers also. Therefore, the Corporation on its own should have come forward to execute a similar sale deed in favour of the petitioner. The corporation having failed to do so cannot take advantage of its own wrong. I reject the argument founded on laches.

7.The learned standing counsel in the alternative contended that the Corporation ought not to be put to any expense. The said submission is well founded.



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8.The impugned rejection order is liable to set aside for the following grounds:-

(a) The allotment was made when there was no ban on sale or allotment of government property.

(b) The terms and conditions of the allotment have already been fulfilled by the writ petitioner.

(c) Sale deed had been executed in favour of similarly placed allottees.

(d) Failure to execute sale deed in favour of the petitioner will amount to breach of equality principle set out in Article 14 of the Constitution of India.

The impugned order is set aside accordingly. The third respondent is directed to execute the sale deed in respect of the petition mentioned house in favour of the petitioner within a period of eight weeks from the date of receipt of a copy of this order. The petitioner has to bear the registration and all other incidental expenses.



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9.This writ petition is allowed accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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- 2.The Director of Municipal Administration,
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G.R.SWAMINATHAN, J.

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