



W.P.(MD)No.8007 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.8007 of 2014

and

M.P.(MD)No.1 of 2014

H.Mannarsamy

... Petitioner

versus

1. The Secretary,
Department of Co-operation,
Fort St. George,
Chennai – 600 009.
2. The Registrar of Co-operative
Society (Housing),
TNHB Building,
No.493, Anna Salai,
Nandhanam, Chennai – 35.
3. The Deputy Registrar (Housing)
Virudhunagar Region,
Virudhunagar.
4. The Special Officer,
Karaikudi Co-operative House



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Building Society Ltd.,
Karaikudi.

5. The Secretary,
Karaikudi Co-operative House
Building Society Ltd.,
Karaikudi.

6. C.T.Narayanan

... Respondents

Writ Petition filed under Article 226 of Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the entire records pertaining to the order of the 2nd respondent in Na.Ka.7502/2009/ ஆ1 dated 19.02.2010 and the order of the 3rd respondent in Na.Ka.No.2926/09 ஈ11 dated 04.03.2010, quash the same, consequently direct the 2nd respondent to pass suitable orders to 3rd and 5th respondent to execute a sale deed in favour of the petitioner as per the allotment order dated 26.09.1984 within a stipulated period.

For Petitioner : Mr.R.Ramasamy

For R1 to R5 : Mr.S.Shaji Bino,
Special Govt. Pleader

For R6 : Mr.R.Sundar Srinivasan



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ORDER

The petitioner is a retired Sub Registrar of the Co-operative Society. During his service, he joined as a Member in the 5th respondent Karaikudi Co-operative Housing Society. The 5th respondent Society, by allotment order dated 26.09.1984, allotted a Plot No.I situated at Soodamanipuram, Karaikudi, in favour of the petitioner. While so, the third respondent, by order dated 04.03.2010, re-conveyed the Plot No.I in favour of the 6th respondent, based on the order dated 19.02.2010 passed by the second respondent, granting no objection to the 3rd respondent to sell the plot. Challenging those orders, the present writ petition is filed.

2. This writ petition was filed in the year 2014. When the writ petition came up before this Court on 02.06.2014, the learned Government Advocate took notice for respondents 1 to 5 and this Court has also permitted the petitioner to serve notice to the 6th respondent.



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Though notice was served on the sixth respondent and learned counsel Mr.R.Sundar Srinivasan, filed vakalath for the sixth respondent on 16.06.2014, no counter affidavit has been filed so far. Thereafter, this writ petition was listed for hearing only on 20.03.2023. On that day, the learned counsel for the petitioner represented that the writ petitioner died and therefore, he sought time to take steps to substitute the legal heirs of the petitioner. On the request of the petitioner, this Court adjourned this writ petition to 27.03.2023. However, the case is listed for hearing today. Today, the learned counsel for the petitioner submits that the petitioner's legal heirs are in abroad and therefore, he needs some more time to file a substitute petition.

3. On perusal of records, it is seen that the petitioner, who served as a CSR in the Co-operative Department, was allotted with a Plot-I by the Co-operative Society and subsequently, it has been cancelled. Thereafter, the third respondent, by order dated 04.03.2010, re-conveyed the Plot No.I in favour of the 6th respondent, based on the



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order dated 19.02.2010 passed by the second respondent, granting no objection to the 3rd respondent to sell the plot to the 6th respondent.

4. Whether the allotment made by the Co-operative Society in favour of the petitioner on 26.09.1984 is valid one or not; whether the cancellation of allotment made in favour of the petitioner is correct or not and under what circumstances, the Registrar of Co-operative Society has given no objection to the 3rd respondent to sell the plot to the 6th respondent? can be decided by a Civil Court and therefore, the petitioner can establish his case before the competent Civil Court.

5. This writ petition is pending from the year 2014 without any progress. Now, it is reported that the petitioner died and his legal heirs are in abroad.

6. Therefore, this writ petition is dismissed. If the legal heirs of the petitioner are having any grievance against the impugned orders in



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this writ petition, liberty is granted to them to file a Civil Suit and establish their right before the concerned Civil Court. If such a suit is filed, the concerned Court shall exclude the period of this writ petition pending before this Court, while calculating limitation period, if any. No costs. Consequently, connected miscellaneous petition is closed.

05.04.2023

ogy
NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

To

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B.PUGALENDHI, J.

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