



W.P.No.10901 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.10901 of 2022
and W.M.P.No.10513 of 2022

D.Kuppusamy

...Petitioner

-Vs -

1. The State of Tamilnadu,
The Housing and Urban
Development Department,
Rep. by its Secretary to Government,
Secretariat, Chennai.
2. The Tamilnadu Urban Habitat
Development Board,
Previously known as Tamilnadu
Slum Clearance Board,
Rep. by its Managing Director,
No.5, Kamarajar Salai,
Chennai – 600 005.
3. The Zonal Officer,
Zonal XIII, Chennai Corporation,
L.B.Road, Dr. Muthulakshmi Salai,
Adyar, Chennai – 600 020.
4. The Estate Officer,
The Estate office -6,
The Tamilnadu Urban Habitat
Development Board,
Previously known as Tamilnadu
Slum Clearance Board,
Chennai – 600 004.



W.P.No.10901 of 2022

5. R.Arunkumar

... Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records from the fourth respondent herein in Na.Ka.No.132/A/2021/ A.Aa.6 dated 16.04.2021 and quash the same and directing the first to fourth respondents herein to execute the sale deed in favour of the petitioner herein at Plot No.201, measuring an extent of about 49.0 Sq.meter (527.423 Sq.ft.) at Door No.217, Kabali Vana Bojana Thottam, Raja Annamalai Puram, Chennai – 600 028, based on the full and final cost made towards the allotted plot on 16.07.1997, within a stipulated time as fixed by this Court.

For Petitioner	: Mr.R.Priyanka
For Respondents	
For R1	: Mr.P.Sanjay Gandhi Government Advocate
For R2	: Mr.M.Babu Muthu Meeran
For R4	: Mr.Mohammed Khose
For R5	: Mr.Sirish Chowdhary For M/s.T.M.Naidu & Co.

ORDER

This writ petition has been filed challenging the order passed by the fourth respondent dated 16.04.2021, thereby rejected the request made by the petitioner for execution of sale deed in his favour.



W.P.No.10901 of 2022

2. The petitioner's father was in possession and enjoyment of the land comprised in S.No.4266, 4266/3 & 4259, ad measuring 49.0 sq. meter situated at Kabali Vana Bojana Thottam, Raja Annamalai Puram, Chennai. During the year 1980, in order to implement Madras Urban Development Project, the second respondent developed the residential plots at Kabali Vana Bojana Thottam, Raja Annamalai Puram, Chennai and allotted the said residential plots to the slum dwellers by the proceeding dated 27.06.1979 and 29.08.1980.

3. During the year 1981, in order to regularize the slum dwellers residing in the slum area, the second respondent directed the petitioner's father to submit an application for allotment of plot at Door No.217, Kabali Vana Bojan Thottam, Raja Annamalai Puram, Chennai, along with advance amount of Rs.89/- within a period of seven days. Accordingly, the petitioner's father submitted an application and also paid the amount on 06.03.1982. Thereafter, the petitioner's father was allotted the said property by the proceeding dated 05.08.1983 for the total sale consideration of Rs.2005/-, based on lease cum sale agreement.

4. As per the terms and conditions, the petitioner's father ought



W.P.No.10901 of 2022

to have paid monthly installment of Rs.22/- for the period of ten years from the date of allotment. If the allottee failed to pay the monthly installment, he has to pay the interest at the rate of 8% and also development charges of Rs.8/- shall also be remitted along with monthly installments. Even after the entire payment was made by the petitioner's father, no sale deed was executed in his favour. In fact, his father was paying electricity service connection, Chennai Metropolitan water supply and sewerage connection and other amenities from the authority concerned and also paying property tax and other dues.

5. While being so, the petitioner's father died on 31.12.1999, leaving behind the petitioner and his mother as his legal heir. Thereafter, the petitioner and his mother permitted one Ramajayam to take care of the plot. Thereafter, the petitioner's mother also died on 04.04.2012. The petitioner is being the only legal heir of the original allottee, submitted representation seeking execution of sale deed and the same was not considered as such, the petitioner submitted petition before the Tamil Nadu Chief Minister Cell and the same was forwarded to the fourth respondent. It was rejected on the ground that the petitioner permitted the third party to stay in the allotted plot. Therefore, after vacating the said



W.P.No.10901 of 2022

person from the said plot and on production of all documents, the sale deed will be executed in his favour. Aggrieved, by the same the petitioner filed this present writ petition.

6. The learned counsel appearing for the petitioner submitted that though the petitioner was permitted the third party in the allotted plot, the respondents 1 to 4 ought to have executed the sale deed in favour of the petitioner, since the petitioner is the only legal heir of the main allottee viz., his father named Duraikannu Naicker. In the similar circumstances, this Court in several matters held that the respondents ought not to have rejected the claim made by the petitioner on the ground that the petitioner permitted the third respondent to stay in the allotted plot.

7. The respondents filed counter and the learned counsel appearing for the respondents submitted that as per the conditions of the allotment order dated 05.08.1983, the beneficiary/allottee must reside in the plot allotted to him/her. The residence proof documents such as family card, aadhar card, voters identity card, gas bill etc., should be in the same address of the allotted plot. Full cost of the plot should be paid



W.P.No.10901 of 2022

before issuance of sale deed. However, the above terms and conditions were not fulfilled by the petitioner or his father while he was alive, to get the sale deed executed in their favour by the respondents.

7.1. Further submitted that in the plot which was allotted in favour of the petitioner's father, he put up some super structure and subsequently, it was sold out in favour of one R.Senthil, who is none other than the son of Ramajayam, who was permitted to occupy in the allotted plot by the petitioner and his mother, by the registered sale deed dated 16.07.1997, registered vide document No.1348 of 1997. After his demise, the fifth respondent, who is none other than own brother of the said R.Senthil, is in occupation and enjoyment of the said plot. Now it has been rented out to the third parties after construction of pucca house. It is completely in violation of the rules and conditions of the respondents board. Therefore, the petitioner is not entitled for any execution of sale deed in his favour.

8. Heard the learned counsel appearing on either side and perused the materials placed before this Court.



W.P.No.10901 of 2022

9. Even according to the petitioner, his father was allotted the said plot by the allotment order dated 05.08.1983. Thereafter, he continuously paid the entire dues in favour of the respondents. However the petitioner's father did not take any steps for execution of sale deed by the respondents 1 to 4 herein. He died only on 31.12.1999 and thereafter his wife died on 04.04.2012. As per the records produced by the respondents, while the petitioner's father was alive, he himself executed the sale deed infavour of the fifth respondent's bother viz., one R.Senthil S/o. Ramajeyam, by the registered sale deed dated 16.07.1997 vide document No.1348 of 1997.

10. It is also seen that the petitioner's father himself handed over the possession of the plot to one Ramajeyam viz., R.Senthil's father. After the sale deed, he constructed pucca house and the same has been now rented out to the third parties. Though the sale deed was registered in favour of R.Senthil, he died and the fifth respondent, who is own brother of the said R.Senthil is enjoying the part of the property. Admittedly, the third parties are in possession and enjoyment of the property which was originally allotted in favour of the petitioner's father. Whereas in the judgments cited by the learned counsel appearing for the petitioner, this



W.P.No.10901 of 2022

Court held that though the third party is in possession and enjoyment of the plot, which was allotted in favour of the original allottee, the sale deed ought to have been executed by the Slum Clearance Board or the Housing Board in favour of the original allottee, after fulfilling the other conditions.

11. However in the case on hand, the original allottee himself sold out the property in favour of one R.Senthil. As per the conditions of the allotment order, the petitioner or his father were not entitled for sale deed. Therefore, the judgments cited by the learned counsel appearing for the petitioner are not helpful to the case on hand. That apart, the request made by the petitioner was rejected on the ground that after vacating the third party and after canceling the sale deed dated 16.07.1997 and on production of required documents, the sale deed will be executed in favour of the petitioner. Therefore, this Court finds no infirmity or illegality in the order passed by the fourth respondent. The writ petition is devoid of merits and liable to be dismissed.

12. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. There shall be



W.P.No.10901 of 2022

no orders as to costs.

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08.04.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
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To

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State of Tamilnadu,
The Housing and Urban
Development Department,
Secretariat, Chennai.
2. The Managing Director,
Tamilnadu Urban Habitat
Development Board,
Previously known as Tamilnadu
Slum Clearance Board,
No.5, Kamarajar Salai,
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G.K.ILANTHIRAIYAN. J.

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