



W.P.No.20033 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.20033 of 2021

M.Thoppaiah

...Petitioner

-Vs-

1.Tamilnadu Housing Board,
Represented by its Managing Director,
No.33, Anna Salai,
Nandanam,
Chennai – 600 035

2.The Executive Engineer,
Tamilnadu Housing Board,
Bagalur Road,
Hosur – 635 109
Krishnagiri District

3.The Manager,
Marketing & Services of TNHB,
Hosur Housing Unit,
Bagalur Road,
Hosur – 635 109,
Krishnagiri District.

4.The Branch Manager,

1/8



W.P.No.20033 of 2021

M/s.ICICI Bank,
Hosur Branch,
Krishnagiri District.

5.The Sub-Registrar,
Registration Department,
Hosur,
Krishnagiri District

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd and 3rd respondents herein to execute and register the Exchange Deed in respect of Plot No.HIG (I) 1129A in lieu of HIG (I) – 1130 in Survey No.875 (Part) of Hosur Village and Taluk, Krishnagiri District without insisting for the Original Documents handed over to the 4th respondent Bank towards Security at the time of availing Housing Loan within a stipulated period.

For petitioner : Mr.K.Govi Ganesan

For Respondents 1 to 3 : Mr.D.Veerasekaran
Standing Counsel

For Respondent 4 : Mr.E.Vijay Anand
Additional Government Pleader

ORDER



W.P.No.20033 of 2021

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This writ petition has been filed for direction to direct the 3rd respondent to execute exchange deed in respect of Plot No.HIG(I) 1129A in lieu of HIG (1)-1130 in S.No.875(part) of Hosur Village and Taluk, Krishnagiri District without insisting for the original documents handed over to the 4th respondent bank.

2. The respondent had promoted a Neighborhood Housing Scheme at Hosur Phase XVI and got sanctioned layout plan. While being so, one Gowramma was allotted an extent of 359.25 square mtr in S.No.875 (part) of Hosur Village, bearing plot No.HIG (I)-1130 in Hosur Phase XVI on 31.03.2006 and as such entered into lease cum sale agreement with respondents 2 and 3. On payment of entire sale consideration, the 3rd respondent had executed a sale deed dated 08.11.2013 in favour of Gowramma vide Document No.16270 of 2013. Thereafter, the said Gowramma executed gift settlement deed dated 14.11.2016 vide registered document No.15992 of 2016 in favour of her daughter Smt.S.Manjula. The said Manjula sold the said property in favour of petitioner vide sale deed



W.P.No.20033 of 2021

dated 19.05.2017 vide document No.4122 of 2017. Thereafter, the petitioner availed loan by depositing the title deed to the 4th respondent to the tune of Rs.30,00,000 for putting up construction. However, on verification the petitioner wrongly constructed Plot No.HIG(1)-1129-A in respect of Plot No.HIG(1)-1130. Therefore, the petitioner submitted representation for execution of exchange deed. The said representation was not considered and the petitioner was constrained to file writ petition in W.P.No.19489 of 2019. This Court by an order dated 30.11.2020 passed the following order :

"As per the above letter, it is admitted that Plot Nos.HIG(I)-1129-A and HIG(I)-1130 are of the same size and same value. Therefore, it would be appropriate to interchange both the plots to enable the petitioner to continue his construction in Plot No.HIG(I)-1129-A, wherein he has mistakenly started his construction. The above order was passed by the first respondent subject to the condition that the expenses for executing such exchange deed should be borne by the petitioner. The learned counsel for the petitioner would apprehend that in view of the construction, which is already there on the plot No.HIG(I)-1129-A, the value of the building should not be added for the purpose of evaluation. As already the Housing Board has specifically stated



W.P.No.20033 of 2021

that both the plots are only of the same value in terms of guideline as well as the market value, the value of the building need not be added, while executing the exchange deed. The petitioner is also directed to execute the above exchange deed at the earliest, as the request of the petitioner has already been approved by the first respondent-Managing Director."

3. After direction issued by this Court the respondents 2 and 3 sent a communication dated 18.01.2021 directed the petitioner to appear along with all the documents for executing the Exchange Deed. However, so far the petitioner did not turned up and failed to produce any original documents for execution of exchange deed.

4. The learned counsel for the petitioner would submit that the petitioner had already mortgaged by depositing title deed and availed loan for construction. Therefore, the requisite banker to return the original documents for execution of exchange deed. On receipt of the same, the 4th respondent sent communication to the 5th respondent stating that the list of documents for the subject property were deposited at the time of availing



W.P.No.20033 of 2021

loan from the 4th respondent. Therefore, no objection for execution of exchange deed. In order to execute exchange deed the original title documents deed is very much necessary.

5. Therefore, the 4th respondent is directed to return the original deed in respect of the Plot No.HIG (1)-1130 in S.No.875(part) of Hosur Village and Taluk, Krishnagiri District dated 19.05.2017 to the 2nd and 3rd respondent herein forthwith. On receipt of the same, the 2nd and 3rd respondents are directed to execute the exchange deed in favour of the petitioner in respect of the Plot No. HIG(I) 1129A as directed by this Court by an order dated 30.11.2020 in favour of the petitioner within a period of two weeks from the date of receipt of original title deed received from the 4th respondent in respect of the Plot No.HIG(1)-1130. The 5th respondent is directed to register the exchange deed in favour of the petitioner and thereafter the petitioner is directed to hand over the original exchange deed to the 4th respondent.



W.P.No.20033 of 2021

6. With the above direction, this writ petition is disposed of. No

costs.

23.04.2024

Index : Yes/No

Speaking/Non-Speaking order

Neutral Citation : Yes/No

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To

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- 2.The Executive Engineer,
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G.K.ILANTHIRAIYAN,J.
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W.P.No.20033 of 2021

W.P.No.20033 of 2021

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