



W.P.No.20823 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM:

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

W.P.No.20823 of 2022

- 1.P.Vasantha Kokilam
- 2.Saroja
- 3.Sridharan
- 4.Sulochana

... Petitioners

-Vs-

1. The Managing Director,
Tamil Nadu Housing Board,
CMDA Complex, E&C Market Road,
Koyambedu, Chennai – 600 107.
2. The Secretary,
Tamil Nadu Housing Board
CMDA Complex, E&C, Market Road,
Koyambedu, Chennai-600 107.
- 3.The Executive Engineer,
Besant Nagar Housing Board Division,
Tamil Nadu Housing Board,
Adyar, Chennai-600 020
- 4.The Administrative Officer,
Besant Nagar Housing Board Division,
Tamil Nadu Housing Board
Adyar, Chennai-600 020.



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5.T.Jarina Fathul,
W/o C.Thajudeen,
E2/827, 47th cross street,
Thiruvalluvar Nagar,
Thiruvannmiyur, Chennai-41.
(R5 impleaded as per order
dated 03.10.2023
in W.A.No.2649 of 2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to execute a sale deed in the petitioner's name for the property to an extent of 640 Sq.Ft (LIG 1041) situated in the Besant Nagar Housing Board Division, based on petitioner representation dated 27.06.2022.

For Petitioners	: Mr.S.Prabhu
For R1 to R4	: Mr.D.Veerasekaran Standing Counsel
For R5	: Mr.R.Krishna Prasad

ORDER

This writ petition has been filed for direction directing the respondents to execute a sale deed in the petitioner's name for the property to an extent of 640 Sq.Ft (LIG 1041) situated in the Besant Nagar Housing Board Division, based on petitioner representation dated 27.06.2022.

2. Heard the learned counsel on either side and perused the materials available on record.



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3. The case of the petitioners is that the first petitioner's father served as an Army Officer and he had applied for a house plot under a scheme and he was allotted with a house plot to an extent of 640 sq.ft (LIG 1041) in the Besant Nagar Housing Board Division, by an order dated 05.03.1987 in Proceeding No.A7/3270/86. After allotment, the said plot was handed over to him on 11.06.1987. The entire sale consideration as per the allotment order was paid, totaling a sum of Rs.34,783/- by monthly installments of Rs.219 per month including interest at the rate of 13% for a period of 13 years. The said amount was paid without any default. While being so, the first petitioner's father died on 07.05.1991. Subsequently, her mother also died on 12.10.2000. The last installment for the sale consideration was completed in the year 2000. Their house was ceased with property tax and they had paid the property tax, till 2022. However, the respondents 1 to 4 did not come forward to register any sale deed in favour of the petitioners.

4. The present writ petition was already allowed by this Court, by an order dated 12.08.2022, thereby directed the respondents 1 to 4 to pass orders on the petitioner's representation dated 27.06.2022, seeking for execution of sale deed, within a period of eight weeks from the date of receipt of a copy of



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the order. Aggrieved by the same, the fifth respondent filed a writ appeal in W.A.No.2649 of 2023. The Hon'ble First Bench of this Court, by an order dated 03.10.2023 quashed the order passed by this Court and remanded to this Court with a direction to pass fresh orders. Thereafter, the fifth respondent has been impleaded as respondent in the present writ petition.

5. The case of the fifth respondent is that the subject property was offered for sales by the third respondent and the fifth respondent, after verifying the encumbrance and all necessary documents had purchased the house plot for a total sale consideration of Rs.9,12,000/-. The third respondent allotted the said house plot in favour of the fifth respondent and had executed a Lease cum Sale agreement dated 15.07.2020. Thereafter, the third respondent had executed a sale deed in favour of the fifth respondent, on 23.09.2020 registered vide Document No.7496 of 2020. The possession of the plot was also handed over to the fifth respondent. Thereafter, the fifth respondent applied for Building Plan Approval to Greater Chennai Corporation, dated 24.01.2022. The fifth respondent was accorded approval dated 02.03.2022 and constructed the house. After the sale deed, the fifth respondent was also issued with patta.



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6. Per contra, the third respondent filed counter and the learned counsel for the respondents 1 to 4 submitted that the petitioner's father one V.Purushothaman was the original allottee for the subject plot vide proceedings dated 11.07.1986 by the Proceeding No.A7/3270/86, LIG House Plot No.1041 at Thiruvannamur extension. The possession of the property was also duly handed over to the said V.Purushothaman. However, the legal heirs viz., the petitioners, by the letter dated 13.11.1992, informed to the third respondent that the original allottee viz., their father died on 07.05.1991. Thereafter, the petitioners were informed to pay the balance cost of the said plot for execution of sale deed. However, they failed to pay the balance cost and no sale deed was executed in favour of the petitioners. Finally, the petitioners were issued with a notice dated 05.06.2023, thereby called upon the petitioners to pay the balance amount of Rs.1,86,000/-. Accordingly, the petitioners also paid the said sum on 07.06.2023. He further submitted that as far as the fifth respondent is concerned, the subject plot was not allotted to the fifth respondent at any point of time. No one had registered the sale deed in favour of the fifth respondent. In this regard, as directed by the first respondent, the third respondent lodged a complaint on 08.05.2023 before the Inspector of Police, Central Crime Branch, Vepery, Chennai. That apart, the third respondent issued a communication



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dated 10.05.2023 to the Sub Registrar, Saidapet and also to the District Registrar to cancel the sale deed executed in favour of the fifth respondent under Section 77(A) of the Registration Act. He also produced the original records before this Court. No document is available stating that the fifth respondent was allotted with the subject property and received installments from the fifth respondent for the subject property. Further, there is no record for issuance of sale deed in favour of the fifth respondent. Admittedly, the fifth respondent is now in possession of the subject property and her house is also ceased with property tax. In fact, the petitioners are also paying the property tax for the very same property.

7. The third respondent appeared before this Court and represented that the person who allegedly registered the sale deed in favour of the fifth respondent had already retired from service and now proceeded with action. Further, the person who had handed over possession of the subject property is placed under suspension and he is facing disciplinary proceedings.

8. In view of the above, the prayer sought for in this petition seeking execution of sale deed in favour of the petitioners cannot be considered, since



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already the sale deed has been executed in favour of the fifth respondent.

Therefore, it would be appropriate for the investigating agency to investigate the matter as per the complaint lodged by the third respondent dated 08.05.2023. Hence, the Inspector of Police, Central Crime Branch, Vepery, Chennai is directed to register FIR as against the accused persons, on the complaint lodged by the third respondent, forthwith and complete the investigation, within a period of twelve weeks from the date of registration of FIR.

9. The petitioner and the third respondent are directed to co-operate for investigation. The third respondent is directed to proceed with cancellation of sale deed which was already executed in respect of the subject property in favour of the fifth respondent and for execution of fresh sale deed in favour of the petitioners subject to the result of investigation done by the Inspector of Police, Central Crime Branch, Vepery, Chennai.

10. The learned counsel for the respondents 1 to 4 also submitted that similar complaints were already lodged before the Central Crime Branch, Chennai for same allegations. However, no action has been taken so far.



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11. Considering the above submission, the Inspector of Police, Central Crime Branch, Vepery, Chennai is directed to register FIR, on the complaint lodged by the third respondent, if any cognizable offence is made out and proceed in accordance with law.

12. With the above directions, this writ petition is disposed of. There shall be no order as to costs.

04.04.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order

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To
WEB COPY

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Tamil Nadu Housing Board,
CMDA Complex, E&C Market Road,
Koyambedu, Chennai – 600 107.
2. The Secretary,
Tamil Nadu Housing Board
CMDA Complex, E&C, Market Road,
Koyambedu, Chennai-600 107.
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Besant Nagar Housing Board Division,
Tamil Nadu Housing Board,
Adyar, Chennai-600 020
4. The Administrative Officer,
Besant Nagar Housing Board Division,
Tamil Nadu Housing Board
Adyar, Chennai-600 020.

Copy to

The Inspector of Police,
Central Crime Branch, Vepery, Chennai



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G.K.ILANTHIRAIYAN. J,

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