



WEB COPY



W.P. Nos.28406 of 2022 & 15653 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

CORAM:

THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

W.P. No.28406 of 2022 & W.P.No.15653 of 2021 and
W.M.P.Nos.16557 & 16559 of 2021

W.P.No.28406 of 2022

N. Chellamuthu

.... Petitioner

vs.

1. The Executive Engineer and
Administration Officer,
Tamil Nadu Housing Board,
Mettur Road,
Erode.

2. A. Kandaswamy

.... Respondents

Prayer in W.P.28406 of 2022 : Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Mandamus directing the first respondent to execute the sale deed in respect of the residential Plot No.85, RS No.510/4, Part 512/2 Part, PeriyaSemur Village, MIG Scheme, Phase I, Erode.

For Petitioner

: Mr.R. Karthikeyan

For Respondent 1

: Mr.D. Veerasekaran
Standing Counsel

For Respondent 2

: Mr.D.S. Rajasekaran



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W.P.No.15653 of 2021

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A. Kandaswamy

.... Petitioner

vs.

1. The Executive Engineer and
Administration Officer,
Tamil Nadu Housing Board,
Mettur Road,
Erode.

2. N. Chellamuthu

3. The Sub Registrar,
O/o. The District Registrar Office,
Ranganpalayam,
Erode – 638 009.

.... Respondents

Prayer in W.P.15653 of 2021 : Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Mandamus forbearing the 1st respondent from issuing any sale deed in favour of the 2nd respondent in respect of the property situated at No.M-85, in MIG Scheme, Phase I Scheme at Nasiyanur Road, Erode by the Erode Housing Unit, Tamil Nadu Housing Board, comprised in Survey No.510/4 Part and 512/2 Part, Periya Semur Village, Erode Taluk and District, the land totally approximately measuring 1540 sq. ft. (143.10 sq. mtr.)

For Petitioner : Mr.G. Mohanakrishnan

For Respondent 1 : Mr.D. Veerasekaran
Standing Counsel

For Respondent 2 : Mr.R. Karthikeyan

For Respondent 3 : Mr.R. Neethiperumal,
Government Advocate



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COMMON ORDER

Writ petition in W.P.No.28406 of 2022 has been filed for direction directing the first respondent to execute the sale deed in respect of the residential plot No.85, RS.No.510/4 Part, 512/2 Part, Periyasemur Village, MIG Scheme, Phase I, Erode and the Writ petition in W.P.No.15653 of 2021 has been filed forbearing the 1st respondent from issuing any sale deed in favour of the 2nd respondent in respect of the property situated at No.M-85, in MIG Scheme, Phase I Scheme at Nasiyanur Road, Erode by the Erode Housing Unit, Tamil Nadu Housing Board, Comprised in S.No.510/4 Part, and 512/2/ Part, Periya Semur Village, Erode Taluk and District, the land totally approximately measuring 1540 Sq.ft., (143.10Sq.mtr).

2. Petitioner in W.P.No.28406 of 2022 was allotted a house plot bearing No.M 85 in MIG Scheme Nasiyanoor Road, Phase I Scheme, Erode by the first respondent vide allotment order dated 29.01.1987 under hire purchase scheme and the tentative cost of the plot was fixed at Rs.1,06,000/-. Accordingly, the petitioner paid the initial amount of Rs.10,600/- and thereafter the petitioner has remitted the entire



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consideration to the respondent in monthly instalments as fixed by the first respondent and the petitioner is also in possession of the property.

Accordingly to the petitioner, after payment of the entire sale consideration, the first respondent did not execute any sale consideration in favour of the petitioner. At the same time, the second respondent filed writ petition in W.P.No.15653 of 2021 forbearing the 1st respondent from execution of any sale deed in favour of the petitioner in respect of the plot which was allotted in his favour on the ground that though the subject property originally allotted in favour of the petitioner as per the allotment order dated 29.01.1987, the petitioner entered into agreement with the second respondent for sale consideration and sell the plot which was allotted in his favour for total sale consideration for a sum of Rs.1,80,000/- In fact, the entire amount has been paid by the second respondent on condition that the petitioner agreed to execute sale deed in favour of the 2nd respondent.

3. On perusal of the counter affidavit filed by the first respondent in W.P.No.28406 of 2022 revealed that as per application made by the petitioner the subject property was allotted in favour of the petitioner for the residential plot No.85, RS.No.510/4 Part, 512/2 Part, Periyasemur



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Village, MIG Scheme, Phase I, Erode ad-measuring 1540 Sq.ft.,

(143.10Sq.mtr) for the total sale consideration of Rs.1,06,000/- . The

petitioner made initial deposit of Rs.10,600/- as per the provisional allotment order the tentative cost of Rs.1,06,000/- with monthly instalments of Rs.1445/- for the period of ten years. However, the petitioner was irregular on payment of monthly instalments. The pending outstanding due amount is Rs.2,39,569/- as per the working sheet dated 05.10.2023. Only after payment of the entire cost, then only sale deed will be executed for the subject property in favour of the petitioner. Further, the second respondent also filed a suit for specific performance in O.S.No.595 of 2017 on the file of the Principal Subordinate Judge, Erode. However, the said suit was dismissed for default.

4. In view of the above, if the petitioner in paid the entire due as on date, the first respondent is directed to execute the sale deed in favour of the petitioner as per the original allotment order. Thereafter, if till any right over the subject property by way of any agreement, the 2nd respondent is at liberty to proceed as against the petitioner in accordance with law.



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Consequently, connected miscellaneous petitions are closed. No costs.

10.04.2024

Internet: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No
gvn

To

1. The Executive Engineer and
Administration Officer,
Tamil Nadu Housing Board,
Mettur Road,
Erode.

2. The Sub Registrar,
O/o. The District Registrar Office,
Ranganpalayam,
Erode – 638 009.



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G.K. ILANTHIRAIYAN, J.

gvn

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