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W.P. No. 33981 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 33981 of 2023

S.Mohammed Ismail

... Petitioner

-VS-

1. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu-Natarajan Maligai,
No. 1, Gandhi Irwin Road, Egmore,
Chennai - 600008.

2. The Chief Executive Officer,
Chennai Metropolitan Development Authority,
Thalamuthu-Natarajan Maligai,
No. 1, Gandhi Irwin Road, Egmore,
Chennai - 600008.

3. The Chief Administrative Officer,
Market Management Committee,
(Iron and Steel Market) Sathangadu,
Chennai - 600068.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Respondents to execute and register the sale deed in respect of the allotted portion of site in Plot No. D-440, Iron and Steel Market, Sathangadu Whole Sale Market Complex, Sathangadu, Chennai - 600068, in favour of the Petitioner.



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For Petitioner : Mr. R.Abdul Mubeen
For Respondents : Mr. P.Kumaresan,
Additional Advocate General
Assisted by
Mr. V.Sudalai Selvan

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ORDER

Heard Mr. R.Abdul Mubeen, Learned Counsel for the Petitioner and Mr. P.Kumaresan, Learned Additional Advocate General assisted by Mr. V.Sudalai Selvan, Learned Counsel appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that the Respondents have allotted him the land of an extent of 234 sq.m. in Plot No. D-440, Iron and Steel Market, Sathangadu Whole Sale Market Complex, Sathangadu, Chennai - 600068 (hereinafter referred to as 'the property' for short) and they have entered into a lease-cum-sale-agreement dated 23.12.1994 for that property and despite the Petitioner having paid the entire dues, the Respondents have not executed the sale-deed in his favour for that property, which has necessitated the filing of this Writ Petition.



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3. Learned Additional Advocate General appearing on behalf of the Respondents, on instructions, states that an outstanding sum of Rs. 2,82,481/- remains payable by the Petitioner towards balance sale consideration on account of interest charged as per the agreement between the parties for delayed payment of installments, and a working-sheet showing its calculation along with a memo dated 12.03.2024 has been filed in that regard.

4. In view of the aforesaid explanation, which deserves acceptance, it is evident that the nature of relief claimed by the Petitioner falls within the realm of disputed questions of fact, which cannot be effectively determined by this Court in proceedings under Article 226 of the Constitution following summary procedure. It must be recapitulated here that the Hon'ble Supreme Court of India in the decision in **Roshina T. -vs- Abdul Azeez K.T.** [(2019) 2 SCC 329] has cautioned that such claims relating to property rights would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court. In such circumstances, the Petitioner has not been impeded from canvassing what is sought to be agitated in this Writ Petition in the aforesaid remedy and there is no acceptable explanation from the Petitioner for not having availed it. In that view of the matter, this Court is not inclined to entertain this Writ Petition or delve into the merits of the



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controversy involved.

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5. At this stage, Learned Counsel for the Petitioner states that the Petitioner would remit the said amount due to the Respondents immediately. It is needless to add here that if such payment is received in entirety, the Respondents shall take expeditious action to execute and register the sale-deed for the property in favour of the Petitioner in accordance with law.

In the result, the Writ Petition is disposed with the aforesaid observations. No costs.

12.03.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 05.06.2024.

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P.D. AUDIKESAVALU, J.

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