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W.P.No.35629 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.35629 of 2019

and

W.M.P.No.21834 of 2020

K.N.Vitto Bhai

... Petitioner

Vs.

1.The Chief Executive Officer,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

2.Saminathan

3.The Sub Registrar,
Joint II SRO,
Chengalpattu District.
(R3 impleaded as per order
dated 07.01.2020 made in
W.M.P.No.466 of 2020 in
W.P.No.35629 of 2019)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the first respondent herein to execute the Sale Deed in favour of the petitioner with respect to the property namely LIG RBH Door No.23 in Block No.9, NH-1, Maraimalai Nagar, Chengalpattu Taluk and District admeasuring 912 square feet without insisting the documents



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relating to the allotment of the aforesaid property in view of the documents sought for by the first respondent are in the possession of the second respondent.

For Petitioner : Mr.G.Mageshkumar
For Respondents :
For R1 : M/s.P.Veenasuresh

For R2 : Mr.S.Ramesh

For R3 : Mr.Stalin Abimanyu
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking for issuance of a mandamus, to direct the first respondent herein to execute the Sale Deed in favour of the petitioner with respect to the property namely LIG RBH Door No.23 in Block No.9, NH-1, Maraimalai Nagar, Chengalpattu Taluk and District admeasuring 912 square feet without insisting the documents relating to the allotment of the aforesaid property in view of the documents sought for by the first respondent are in the possession of the second respondent.

2. The case of the petitioner is that she is the absolute owner of the subject property. The first respondent allotted the said property in the name of the petitioner on 02.03.1984 and by then, the petitioner's husband was dealing



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with the property and its documents relating to the allotment as well. During the lifetime of the petitioner's husband, the second respondent managed to get possession of the documents relating to allotment order of the subject property and still the second respondent is having the originals of the documents. Having the originals of the documents, the second respondent requesting the first respondent for registration of the Sale Deed in his favour.

3. The further case of the petitioner is that she made a representation to the first respondent on 31.05.2019, seeking execution of Sale Deed in her favour. In response, the first respondent vide Letter No.AL 10/2312/1980 dated 07.06.2019, directed the petitioner to furnish the photo copies of the Provisional Allotment Order, Regular Allotment Order, Lease-cum-Sale Agreement etc. Consequent to the first representation dated 31.05.2019, the petitioner has sent another representation to the first respondent and the first respondent vide Letter No.AL 10/2312/1980 dated 20.07.2019 addressing the second respondent has categorically stated that the property in dispute has been allotted to the petitioner and not to the second respondent. The petitioner was called for inquiry on 01.08.2019. In the inquiry, the first respondent insisted the petitioner to produce of the original allotment order. Hence, the petitioner has filed RTI application. In turn to the RTI application, the first respondent vide Letter



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No.G/PIO/10950/2019 dated 22.08.2019, has stated that the information sought for by the petitioner is already available with the petitioner as an allottee and therefore, no information need to be forwarded. The further appeal of the petitioner dated 10.09.2019 has also been rejected by the appellate authority. Thereafter, the petitioner made a representation dated 01.11.2019 to the Principal Secretary of the Chennai Metropolitan Development Authority (CMDA), Chennai and the first respondent, seeking to execute the Sale Deed in favour of the petitioner. In response, the first respondent vide Letter No.AL 10/2312/1980 dated 12.11.2019, stated that the documents sought for by the first respondent has been produced by the second respondent and further directed the petitioner to produce all the original certificates/original documents. Hence the writ petition.

4. Learned counsel appearing for the second respondent submitted that the second respondent has filed O.S.No.86 of 2023 on the file of the Sub Court, Chengalpattu on 15.03.2023, for the following relief:-

- i. Declaring the plaintiff as assignee of the first defendant for obtaining deed of conveyance of the suit schedule property from the 2nd defendant as per the agreement dated 04.08.1986, and



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- ii. Granting mandatory injunction directing the 2nd defendant to execute and register sale deed in favour of the plaintiff failing which execute sale deed for suit schedule property through process of court, and
- iii. Granting permanent injunction restraining the first defendant, their men, agents, servants from in any manner disturbing the peaceful possession and enjoyment of the suit schedule property and
- iv. Cost of the suit.

5. The second respondent has also filed I.A.No.1 of 2023 in O.S.No.86 of 2023 on the file of the Sub Court, Chengalpattu on 15.03.2023, for the following relief:-

- i. List the suit on emergent basis
- ii. Issue ad-interim injunction restraining the respondent, their men, agent, servants or any person claiming through them from in any manner disturbing peaceful possession and enjoyment of schedule mentioned property pending disposal of the suit.

6. After hearing the petitioner, on 28.04.2023, the Sub Court, Chengalpattu, was pleased to pass the following order. It reads as under:-

“8. In the result, an Interim Order of Status quo till



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07.06.2023 is granted. The parties shall maintain status quo till then. Issue fresh notice to R1 and R2 through Court and post and private notice also permitted. Order 39 Rule 3(a) of CPC., shall be strictly complied with. Call on 07.06.2023”.

7. Notice was also served to the petitioner and the first respondent herein and they are set *ex parte* and Order XXXIX Rule 3-A of the Code of Civil Procedure, 1908 was also complied with. To that effect, a memo with copy of notice was also filed on 01.06.2023 and the same was recorded by the Sub Court, Chengalpattu 07.06.2023.

8. Learned counsel appearing for the first respondent submitted that they are not aware of the suit.

9. According to the endorsement made in the order passed by the Sub Court, Chengalpattu on 28.04.2023, both the respondents (the petitioner and the first respondent herein) have been served and set *ex parte*.

10. Interim Order was passed as early as 28.04.2023 and now more than 16 months have gone, the first respondent has not taken any steps to file a petition to set aside the *ex parte* order granted in favour of the second



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respondent by the Sub Court, Chengalpattu on 28.04.2023.

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11. Since the prayer sought for in this writ petition is to direct the first respondent to execute the Sale Deed in favour of the petitioner and the prayer in the suit is to declare the plaintiff as assignee of the first defendant for obtaining deed of conveyance of the suit schedule property from the second defendant as per Agreement dated 04.08.1986. Hence, the prayer in the writ petition and the relief sought for in the suit is one and the same.

12. In view of the above, the petitioner as well as the first respondent is directed to conduct the proceedings in O.S.No.86 of 2023. The first respondent may take appropriate action subject to the outcome of the suit O.S.No.86 of 2023.

13. Learned counsel on either side submitted that time frame may be fixed by this Court to dispose the suit O.S.No.86 of 2023 on the file of the Sub Court, Chengalpattu.



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14. Hence, this Court is inclined to accept the above submission and the Sub Court, Chengalpattu is directed to dispose the suit O.S.No.86 of 2023 as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order.

15. In the result, this Writ Petition is disposed of with the above observations and directions. No costs. Connected Writ Miscellaneous Petition is closed.

11.07.2024

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

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To

1.The Chief Executive Officer,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

2.The Sub Registrar,
Joint II SRO,



Chengalpattu District.

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