



W.P(MD)No.15895 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 12.06.2024

Delivered on : 25.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.15895 of 2021

and

W.M.P(MD)Nos.12806 and 12807 of 2021

Arumuga Nainaar

: Petitioner

Vs.

1.The Deputy Registrar (Housing),
O/o. The Deputy Registrar,
Tirunelveli.

2.The Sub Registrar,
Melapalayam Sub Registrar Office,
Melapalayam, Tirunelveli.

3.0.2173 State Bank Staff Co-operative Housing
Society Limited,
Rep.by its Administrator,
State Bank Colony, Ezhil Nagar,
Tirunelveli 627 007.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorari, to call for the records pertaining to the impugned order passed by the first respondent in Na.ka.No.24/2024/E, dated 05.03.2021 and quash the same as illegal.



W.P(MD)No.15895 of 2021

For Petitioner : Mr.S.M.Mohan Gandhi

For Respondents : Mr.M.Senthil Ayyanar,
Government Advocate, for R1 and R2.

: Mr.S.Kumar, for R3.

ORDER

The Writ Petition is directed against the communication, dated 05.03.2021 sent by the first respondent to the second respondent requesting him to cancel the registration of documents in respect of Plot No.45 in S.No.853/1 of Kulavanigarpuram Village and not to register any documents in respect of said property.

2. The petitioner's case is that he joined as an Attendor in the State Bank of India at Kovilpatti Branch and during his service, he became a member in 0.2173 State Bank of India Employees Housing Co-operative Society by paying membership fees and entrance fees on 27.06.1983; that he was allotted with membership number as 195; that when he was in service in Kovilpatti Branch, the third respondent Society has allotted Housing Plots to its members; that the petitioner has also applied for Housing Plot; that since most of the committee members are caste Hindus, they refused to allot a plot to the petitioner, who is belonging to Hindu Pallan community; that the petitioner has given a complaint



W.P(MD)No.15895 of 2021

under the provisions of Civil Rights Act and after enquiry, the matter entered into compromise and they have allotted a housing Plot No.45 an extent of 12.19 cents in State Bank New Colony, Melapalayam, Tirunelveli District; that the committee members have informed him that the original documents of the said property has been mortgaged in the State Bank of India and after paying all the loan by the Society, the said plot would be registered in the petitioner's name; that the petitioner accepted the same and got possession of the plot and that he has been maintaining and enjoying the said plot.

3. It is the further case of the petitioner that he had joined as Auditor in the co-operative department; that the Society has then refused to register the plot in favour of the petitioner and further, they have deleted the petitioner's name from the members list and included one Alwar in the place of the petitioner; that the petitioner has then filed a petition before the District Registrar (Housing Board), Tirunelveli Region, seeking orders to include his name in the membership list and to allot the plot No.45 as per earlier allotment; that the petition was taken on file as file No.3/1987 DR and the first respondent vide order, dated 11.05.1988, directed the said Society to include the petitioner's name in the membership list and make registration of Plot No.45 in favour of the petitioner without collecting any further donation; that after the petitioner's



W.P(MD)No.15895 of 2021

representation, they have finally made registration in favour of the petitioner vide document No.8521/2020 on 28.12.2020; that when the petitioner was making plan to construct a house in the plot allotted to him, some members of the said Society having *male fide* intention to prevent the petitioner from living in the said plot, have made a petition before the District Registrar (Housing Board), Tirunelveli to cancel the petitioner's allotment; that the first respondent has passed the order, dated 05.03.2021 requesting the second respondent not to register any document in respect of the said plot No.45 and to take necessary steps to cancel the above allotment and that therefore, the petitioner with no other option has filed the present writ petition.

4. The main contention of the petitioner is that the first respondent without considering the order passed by the Deputy Registrar (Housing), Tirunelveli, dated 11.05.1988, the third respondent has over looked the Government Order in G.O.Ms.No.224, dated 27.11.2009 of Housing Board and Urban Development Department and the proceedings, dated 21.12.2012, which are not applicable to the petitioner's allotment, since the allotment was made and confirmed in the year 1988 itself by the then Deputy Registrar (Housing), Tirunelveli; that the first respondent/Deputy Registrar (Housing) has no power to review the order passed by his erstwhile Deputy Registrar (Housing Board);



that though the petitioner's membership was renewed through order, dated 11.05.1988 passed by the then Deputy Registrar (Housing), Tirunelveli, the same was not considered by the first respondent; that the members of the Society, who have filed the petition before the first respondent, have no *locus standi* to initiate the said proceedings and that therefore, the impugned order which is illegal and unsustainable is liable to be set aside.

5. The defence of the first respondent is that bye-laws of the third respondent society contemplate that a permanent employee of State Bank of India can be a member of the Society, but the petitioner has neither pleaded nor produced any records to prove that he was permanent employee of the State of Bank of India, Kovilpatti Branch; that the order, dated 11.05.1988 alleged to have been passed by the Deputy Registrar (Housing) canvassed by the petitioner was not at all signed by the Deputy Registrar and the same was signed by the Head Assistant; that the Office seal affixed in the said order also is not that of the seal, which was in use at that time; that when a search was made in the Office of the first respondent, no such order was available in the office records; that the Officer who is said to have passed the said order, dated 11.05.1988 is no more and that thereafter, the above facts would raise serious doubts on the genuineness of the order, dated 11.05.1988.



W.P(MD)No.15895 of 2021

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6. It is the further case of the first respondent that the petitioner has produced the allotment order, dated 05.11.2003 as if the then Special Officer of the third respondent Society has passed the allotment order in respect of Plot No.45 and directed to register the deed in favour of the petitioner, after collecting Rs.18,395/-; that the signature of the then Special Officer Mrs.Shanthi, available in the official records is not matched with the signature available in the alleged allotment order; that the said allotment order is also seems to be a fabricated one; that the petitioner with connivance of Thiru.V.Masuthu, who was the Administrator of the third respondent Society got the document registered at second respondent office; that the petitioner on the strength of the sale deed had attempted to occupy the plot No.45; that the members of the third respondent Society have then only brought the above aspect to the knowledge of the first respondent about the illegal registration of sale deed through their representation, dated 05.03.2021; that the first respondent could not find any allotment order in favour of the petitioner in the office records; that the land comprised in S.No.853/1, Kulavanigarpuram Village was converted as plots in third phase scheme and allotment was made to the members after construction of houses and no one was allotted with vacant site alone; that in third phase all plots were allotted except plot No.45, since it is



W.P(MD)No.15895 of 2021

earmarked for Society's common purpose and a building was constructed thereon by the Society; that the first respondent taking note of the above aspects has sent a communication to the second respondent to cancel the sale deed and not to make any further registration in respect of Plot No.45; that the petitioner has manipulated and forged the Society records with the help of the said Masathu, Co-opretative Sub Registrar (now under suspension) in the names of the officers, who are no more; that the impugned communication is an internal communication and the same cannot be challenged and that therefore, the petition is devoid of merits and the same is liable to be dismissed.

7. The third respondent has filed a counter affidavit reiterating the contentions of the first respondent. The main contention of the petitioner is that since he was an employee in the State of Bank of India, Kovilpatti Branch, he has become a member in the third respondent Society and on that basis, he was allotted with plot No.45. Even according to the petitioner, he has become a member in the third respondent Society on 27.06.1983 and he resigned the bank job on 12.08.1983 within 47 days. Admittedly, the petitioner was working in the State Bank of India for a very short period and more importantly, he remained as a member of third respondent Society only for 47 days.



8. As rightly contended by the learned counsel for the respondents 1 and 2, though the petitioner has alleged that he has become the member in the third respondent Society on 27.06.1983 with membership number as 195, he has not produced any iota of evidence to show that he was enrolled as member in third respondent Society on 27.06.1983. As per the copy of admission register produced by the petitioner, one Alwar was admitted as a member on 27.04.1985 with membership number as 195. If that is so, as rightly contended by the learned counsel for the respondents, this Court is also at loss to understand as to how the petitioner was admitted in the same membership number 195 on 27.06.1983.

9. As already pointed out, the petitioner has taken a stand that as per the order passed by the Deputy Registrar (Housing), Tirunelveli, i.e., the first respondent, dated 11.05.1988, he was again admitted as member of the third respondent Society on 24.05.1988 with membership number as 338. No doubt, he has produced the copy of the cash receipt and admission register, wherein it is shown that he was admitted on 24.05.1988 with membership number 338.

10. The learned counsel for the respondents 1 and 2 would submit that an election was conducted for board in the year 2014, after preparing the list of



total members of the third respondent Society and as per the records, there were totally 337 persons and that therefore, the contention of the petitioner that he was re-admitted with membership number as 338 on 24.05.1988 is proved to be false. The petitioner has not offered any reason or explanation for the same.

11. The main defence of the respondents 1 and 2 is that the petitioner in connivance with one V.Masathu, the then Administrator of the third respondent Society have manipulated and forged the Society records and created documents. The first respondent in their counter statement has taken a specific stand that the order alleged to have passed by the then Deputy Registrar (Housing), dated 11.05.1988 is not a genuine order and according to him, the said order, dated 11.05.1988 was not signed by the Deputy Registrar, but on the other hand, it was signed by the Head Assistant and listed out the following reasons :

(i) Office seal affixed in the said order is not that of the seal, which was in use at the relevant time.

(ii) The preamble portion of the order reads that it is confidential file. When the authority adjudicated the issue and passed an order, the same cannot be considered as a confidential file.



W.P(MD)No.15895 of 2021

(iii) Despite a search was made in the office of the first respondent, no such order is available in the office records.

12. The first respondent has further stated that the officer, who is said to have passed the order, dated 11.05.1988 is no more. As rightly contented by the learned Government Advocate, though the first respondent has raised serious allegations that the said order, dated 11.05.1988 is not genuine, the petitioner has not taken any steps to produce the notice received by him before the said Deputy Registrar, his participation in the enquiry and the order, dated 11.05.1988 containing the signature of the then Deputy Registrar (Housing). The first respondent in his counter affidavit has also doubted the genuineness of the plot allotment order, dated 05.04.2003, as if the then Special Officer of the third respondent Society has passed the allotment order in respect of the plot No.45 and directed to register the document in favour of the petitioner, after collecting Rs.18,395/-. According to the first respondent, when the signature of one Santhi, the then Special Officer of the third respondent Society available in the official records was compared with the signature found in the alleged allotment letter, dated 05.04.2003, the same does not match. According to the respondents, the value of plot No.45 is worth about Rs.1.46 crores, but the petitioner alleged that he was only directed to pay Rs.18,395/-.



W.P(MD)No.15895 of 2021

WEB COPY

13. As rightly contended by the learned counsel for the respondent, if the petitioner was allotted with Plot No.45, even prior to 1988, there is absolutely no pleadings or evidence to show as to why the petitioner had kept quiet till 2020 to get his plot be registered. The explanation that he was in service in some other department, by no stretch of imagination, can be taken as a valid and acceptable reason.

14. It is not in dispute that since the petitioner has attempted to occupy the plot No.45, the members of the third respondent Society had raised a complaint with the first respondent and considering the case of both the parties and the doubts raised with respect to the order, dated 11.05.1988 and the allotment dated 05.04.2003, has ordered for enquiry under Section 81 of Tamil Nadu Co-operative Societies Act and the Co-operative Sub-Registrar was appointed as enquiry officer. The Sub Registrar, after conducting enquiry, has submitted a report, dated 23.08.2021 and wherein, it has been stated that the petitioner in collusion with the said Masathu, the then Administrator of the third respondent Society has created records as if the allotment has been made in favour of the petitioner; that no records were available in the Society to prove that the petitioner is the member of the third respondent Society; that the said Masathu



W.P(MD)No.15895 of 2021

has taken away all the records of the third respondent Society and connived with the petitioner and forged all records, seal and signature of the then officers, who are no more, as if Plot No.45 was allotted to the petitioner with a view to grab the Plot No.45 worth about Rs.1.46 crores; that the said Masathu has made paper publication calling for objection from members with regard to registration of plot, wherein he conveniently mentioned as Plot No.18 instead of Plot No.45, that no prior permission was obtained from the first respondent and that therefore, the enquiry officer has recommended for criminal action and surcharge action against the petitioner and the said Masathu.

15. It is the specific contention of the respondents that the land comprised in S.No.853/1 of Kulavanigarpuram Village was converted as plots in the third phase scheme and subsequently, allotment was made to the members after construction of houses and no one was allotted with vacant site alone and that all plots were allotted in third phase except Plot No.45, since it was earmarked for Society's common purpose and a building was also constructed thereon by the Society. It is pertinent to note that the petitioner has not disputed the above factual aspects.



16. It is pertinent to note that when the plot No.45 was allegedly allotted to the petitioner, even according to him, he was not working in the State Bank of India and hence, he cannot claim that he was continuing as a member of the third respondent Society. According to the respondents, the petitioner is already a member of Thoothukudi NGO Cooperative Housing Society and he was the President of the said Society at that time of enquiry by the Sub Registrar under Section 81 of Tamil Nadu Co-operative Societies Act.

17. As rightly contended by the learned counsel for the respondents, the petitioner cannot become a member of two group Housing societies or two Co-operative Societies and that therefore, the petitioner being a member of Thoothukudi NGO Co-operative Housing Society, cannot claim allotment of a plot from the third respondent Society. Considering the above, the impugned action proposed by the first respondent cannot be found fault with.

18. It is pertinent to note that the communication sent by the first respondent to the Sub Registrar of Melapalayam, Sub Registrar Office, dated 05.03.2021 is impugned in the present writ petition. Admittedly, it is inter departmental communication and the same does not finally determine any right or obligation *inter se* the parties. As rightly contended by the learned counsel for



W.P(MD)No.15895 of 2021

the respondents 1 and 2, the petitioner cannot challenge the internal communication, invoking Article 226 of the Constitution and as such, the Writ Petition is not maintainable. Viewing from any angle, this Court concludes that the Writ Petition is devoid of merits and the same is liable to be dismissed.

19. In the result, the Writ Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed. No costs.

25.06.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
das

To

1.The Deputy Registrar (Housing),
O/o. The Deputy Registrar,
Tirunelveli.

2.The Sub Registrar,
Melapalayam Sub Registrar Office,
Melapalayam, Tirunelveli.



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W.P(MD)No.15895 of 2021

K.MURALI SHANKAR, J.

DAS

Pre-delivery order made in
W.P(MD)No.15895 of 2021
and
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Dated : 25.06.2024