



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

W.A.(MD) No.761 of 2021

DATED : 12.12.2024

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

W.A.(MD) No.761 of 2021

and

C.M.P.(MD) No.3422 of 2021

The Secretary
Tiruchirappalli Co-operative House
Construction Society Ltd.,
R.No.786, No.33, Colony Main Road
Thillainagar
Tiruchirappalli-620 018

... Appellant

-vs-

D.Samuel Ponnaiyah

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 02.09.2020, passed in W.P.(MD) No.8915 of 2020, on the file of this Court.

For Appellant : Mr.S.Giritharan

For Respondent : Mr.R.Babu Jaganath



WEB COPY



W.A.(MD) No.761 of 2021

J U D G M E N T

[Judgment of the Court was made by RMT.TEEKAA RAMAN, J.]

The respondent herein filed the writ petition in W.P.(MD) No.8915 of 2020 seeking for a direction to the appellant herein to consider his representation dated 23.07.2020 for the early release of conveyance deed in favour of the original allottee SP.PL.Palaniyappa Chettiyar.

2. According to the respondent / writ petitioner, the subject land was originally allotted by the appellant – Society in favour of one Palaniyappa Chettiyar on 05.10.1963. The said Palaniyappa Chettiyar was a member of the appellant – Society. He had cleared all the dues payable to the appellant – Society. Following his demise, his share was devolved upon his son Subramaniyam Chettiyar on 26.10.1966. The said Subramaniyam Chettiyar executed a sale deed dated 13.04.1970 in favour of one Bakkiyathammal, who is the mother of the respondent herein. She executed a settlement deed in favour of the respondent on 26.10.2009.

3. The learned Single Judge, by order 02.09.2020, disposed of the said writ petition by holding that it is open to the appellant – Society to



W.A.(MD) No.761 of 2021

carefully verify the documents and if it is seen that the respondent herein is the successor-in-interest in the place of the original allottee Palaniyappa Chettiar, then, the request of the respondent herein is to be granted and to complete the entire exercise within a period of six weeks from the date of receipt of a copy of the order. Challenging the same, the Society has preferred this appeal.

4. Admittedly, one Palaniyappa Chettiar is the original allottee of the subject land and he has paid the necessary amount. He died thereafter. Subsequently, his son Subramaniyam Chettiar had executed a sale deed in favour of the the respondent's mother, namely, Bakkiyathammal on 13.04.1970 and on 26.10.2009, the said Bakkiyathammal executed a settlement deed in respect of the subject land in favour of her son being the respondent herein. Since there was a dispute in the appellant – Society and supersession of the appellant – Society was also taken over, there was a delay in releasing the conveyance deed in favour of the original allottee Palaniyappa Chettiar.

5. Taking note of the fact that since the original allottee Palaniyappa Chettiar as well as his son Subramaniyam Chettiar are no more,



W.A.(MD) No.761 of 2021

the question of their legal heirs approaching the appellant – Society does not really arise for consideration.

6. In view of the contingent sale executed by the said Subramaniyam Chettiar in favour of the respondent's mother, who in turn executed a settlement deed in favour of her son / respondent herein, they have stepped into the shoes under the doctrine of successor-in-interest. Accordingly, the learned Single Judge has come to the conclusion that the respondent herein is really a successor-in-interest in respect of the subject property.

7. Learned counsel appearing for the appellant – Society would contend that the factum of the death of the original allottee Palaniyappa Chettiar and whether the said Subramaniyam Chettiar is his legal heir is not ascertained and therefore, the conveyance deed said to have been executed by the Subramaniyam Chettiar in favour of the respondent's mother is invalid in law and consequently, the settlement deed executed in favour of the respondent by his mother is also not sustainable.



W.A.(MD) No.761 of 2021

WEB COPY

8. This Court is unable to appreciate the said contention as the learned Single Judge has given a clear finding that the respondent and his mother are the successor-in-interest, the sale deed executed by the said Subramaniam Chettiar in favour of the respondent's mother Bakkiyathammal is to be treated as a contingent sale and by operation of doctrine of feeding the grant by estoppel, the said Bakkiyathammal gets title and hence, we do not appreciate the stand taken by the learned counsel for the appellant – Society. In fact, the appellant – Society wants to wash their hands by claiming that the respondent herein is not a member of the appellant – Society. Admittedly, the said Palaniyappa Chettiyar being the original allottee, the contention of the learned counsel for the appellant – Society cannot be countenanced and the is rejected. It is to be noted that instead of complying with the orders passed by the learned Single Judge in the year 2020, the appellant – Society has filed this writ appeal in the year 2021.

9. Be that as it may, we do not find any merit in this writ appeal and the same is, therefore, liable to the dismissed.



WEB COPY

W.A.(MD) No.761 of 2021

10. Accordingly, this writ appeal is dismissed. The time for compliance of the order passed by the learned Single Judge by the appellant – Society is twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

[T.K.R., J.] [N.S., J.]

12.12.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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W.A.(MD) No.761 of 2021

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