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W.P.(MD)No.25507 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.10.2024

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**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.P.(MD)No.25507 of 2024

1.I.Rajesh  
2.S.Raji

... Petitioners

Vs.

1.The Inspector General of Registration,  
Door No.100, Santhome High Road,  
Foreshore Estate, Pattinapakkam,  
Chennai-600 028.

2.The Sub Registrar,  
Tallakulam.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the second respondent to register the sale deed dated 04.10.2024 executed by the Second Additional Subordinate Judge, Madurai in favour of the petitioners in respect of the subject property (site alone) in Plot No.436, East Ninth Street, K.K.Nagar, Madurai in Town Survey No.59 without insisting for payment of stamp duty and registration charges in respect of the building standing thereon and without insisting for production of the original sale deed thereon and without insisting for production of the original sale deed dated 18.02.1985 bearing document No.623 of 1985 on the file of the second respondent executed by the Tamil Nadu Housing Board in favour of Natarajan and release the same forthwith.



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For Petitioners : Mr.J.Barathan  
For Respondents : Mr.P.Subbaraj  
Special Government Pleader

### **ORDER**

This writ petition is filed seeking a direction to the second respondent to register the sale deed dated 04.10.2024 executed by the Second Additional Subordinate Judge, Madurai in favour of the petitioners in respect of the subject property (site alone) in Plot No.436, East Ninth Street, K.K.Nagar, Madurai in Town Survey No.59 without insisting for payment of stamp duty and registration charges in respect of the building standing thereon and without insisting for production of the original sale deed.

2.Mr.P.Subbaraj, learned Special Government Pleader takes notice for the respondent.

3.The case of the petitioner is that an extent of 16.4 cents of vacant site was originally allotted to one Natarajan by the Tamil Nadu Housing Board. As per the lease cum sale agreement dated 04.07.1973, the Housing Board will execute a registered sale deed only after the allottee pays the entire sale consideration in installments and constructs a superstructure over the vacant



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land. The allottee was not having the wherewithal to put up a building over the vacant plot. Hence, he has entered into an agreement of sale with one Inbasekaran, father of the petitioner on 19.01.1984. As per the agreement, the petitioner's father has constructed a building with his own fund. Pursuant to the same, the Housing Board has executed a registered deed in favour of Natarajan, the original allottee.

4. Thereafter, the said Natarajan, failed to execute the sale deed in favour of the petitioner's father. Hence, a suit came to be filed by the father of the petitioner in O.S.No.252 of 1986 for specific performance. That suit has been decreed in favour of the petitioner's father. In the appeal filed by the original allottee, the judgment of the trial Court was reversed. Challenging the same, the petitioner's father filed SLP before the Hon'ble Supreme Court and the said SLP was allowed and the matter was remanded back to the file of this Court. This Court by judgment and decree dated 28.06.2023 dismissed the appeals filed by Natarajan holding that the building was put up only by the petitioner and directing the execution Court to execute the sale deed in respect of the vacant land in favour of the petitioner's father. Challenge to the said decree and judgment was also ended in dismissal. In the execution petition, the execution of sale was also confirmed. However, when the sale deed was presented for



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registration, the second respondent is insisting the petitioner to pay stamp duty in respect of the building also. Challenging the same, the petitioner has filed this writ petition.

5.Counter has been filed stating that during the inspection, if superstructure is found, naturally, the registering authority will insist for payment of stamp duty and registration charges for the same as per the value fixed by the Public Works Department. Hence, the petitioners cannot claim any concession on the stamp duty and registration charges, merely because the sale deed has been executed by the II Additional Sub Court, Madurai. It is further averred that it is not the first sale deed executed by the Tamil Nadu Housing Board in favour of the allottee. This is the second sale deed in favour of the legal heirs of Inbasekaran and hence, they have to necessarily pay the stamp duty and registration charges for the building raised therein in addition to the value shown in the sale deed for the house site.

6.I have heard the learned counsel appearing on either side and perused the materials placed on record.



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7.Perusal of the judgment of this Court in A.S.No.665 and 666 of 2001, dated 28.06.2023, shows that the crux of the issue involved in this matter was whether the petitioners' father, Inbasekaran, is entitled to specific performance with regard to the vacant site to an extent of 16.4 cents. It is not disputed that originally the vacant site was conveyed by the Housing Board to the original allottee, Natarajan with the condition that the allottee should construct a house within a particular period. As the original allottee could not construct the building in time, he has entered into an agreement with one Inbasekaran, father of the petitioners and the building, namely Marriage Hall came to be constructed by the father of the petitioners in the vacant site, which has been proved before the Court by way of evidence.

8.Pursuant to the construction of the building, the Housing Board executed the sale deed in favour of the original allottee in respect of the vacant house site. However, the original allottee, Natarajan failed to execute the sale deed in respect of the vacant site in favour of the petitioners' father. Hence, the suit has been filed and decreed in favour of the petitioner's father.

9.The building has already been constructed by the agreement holder and not the subject matter of the sale. The subject matter is only the agreement with



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regard to the vacant site. When this Court has held that the petitioners' father has become the absolute owner of the building by spending huge money and while the document is sought to be executed in favour of the vacant site alone, the registering authority cannot insist the petitioners to pay separate Court fee for the building, which has already been culminated into ownership by the orders of this Court.

10.In such view of the matter, this writ petition is allowed and the registering authorities are directed register the document executed by the Court of law in the execution proceedings in E.P.No.6 of 2024 within a period of one week from the date of receipt of a copy of this order subject to other usual formalities and the stamp duty shall be collected in respect of the vacant site alone. No costs.

**29.10.2024**

NCC:yes/no  
Index:yes/no  
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To

- 1.The Inspector General of Registration,  
Door No.100, Santhome High Road,  
Foreshore Estate, Pattinapakkam,  
Chennai-600 028.
- 2.The Sub Registrar,  
Tallakulam.



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**N.SATHISH KUMAR, J.**

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