



W.P(MD)No.22518 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

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V.Karuppaiah

... Petitioner

Vs

1.The Executive Engineer and
Administrative Officer, Madurai Housing
Board Division (TNHB),
Tamil Nadu Housing Board,
Ellis Nagar, Madurai - 625 010.

2.The Chairman,
Tamil Nadu Housing Board, Nandanam,
Chennai - 600 006.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to deliver the Petitioner forthwith the possession of the house bearing No. M63 allotted to the Petitioner by the 1st Respondent by his proceeding in MH.33/M.63/4644/09 dated 28.07.2009 in Madurai Housing Unit TNHB (Melavasal Kudisai Maatruthittam).



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For Petitioner : Mr.V.Santhakumaresan

For Respondents : Mr.R.Sivakumar
Standing Counsel

ORDER

The petitioner is a son of one Veeran. He has filed this writ petition for a Mandamus, directing the respondent housing board to hand over the possession of a house bearing No.M63 allotted to this petitioner by the respondent by his proceedings in MH.33/M.63/4644/09 dated 28.07.2009.

2.The case of the petitioner is that the petitioner's father got married to one Seruviyammal. The said Seruviyammal was allotted with a house in M63 at Melavasal by the Housing Board. Since the said Seruviyammal was not having any issue, the petitioner's father Veeran has married one Azhagi, who is none other than the sister of Seruviyammal. The petitioner and one Rajathi were born to Azhagi through Veeran. The petitioner claims that he along with his sister were maintaining Seruviyammal. After the death of



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the said Seruviyammal, the petitioner has approached the Housing Board for allotment of the house stands in the name of the said Seruviyammal. He has also produced a legal heir certificate and No Objection Certificate from her sister Rajathi. Based on that, the respondent Housing Board has allotted the house to the petitioner by their proceedings in MH No.33 M63/4644/2009 dated 28.07.2009. However, the possession of the house was not handed over to the petitioner. Therefore, the petitioner has approached this Court in the year 2017.

3.The learned standing counsel appearing for the Housing Board submits that one Krishnammal, the another sister of Seruviyammal has filed a suit in O.S.No.1101 of 2009 before the District Munsif Court, Madurai claiming that she is the legal heir of Seruviyammal. The suit was decreed in favour of Krishnammal. Therefore, the respondents have not handed over the house to the petitioner.



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4.This Court considered the rival submissions made and also perused the materials placed on record.

5.Originally, a house in M63 at Melavasal was allotted by the respondent Board to one Seruviyammal, who is the step mother of the petitioner. The petitioner along with his sister one Rajathi claim that they are the legal heirs of their step mother. They have also obtained a legal heir certificate from the Revenue Department. One Krishnammal, the another sister of Seruviyammal has obtained a decree from the competent civil Court that she is the legal heir of the deceased Seruviyammal. It appears that decree obtained by the said Krishnammal is an exparte decree, wherein, the petitioner and his sister are not parties. In view of the decree granted by the competent civil Court, the petitioner cannot claim it as a matter of right for allotment of a house from the Housing Board.

6.In view of the above, this writ petition is disposed of with a liberty to the petitioner to work out his remedy by filing a suit



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before the competent civil Court, impleading the said Krishnammal as a party. After establishing his right, the petitioner shall approach the Housing Board for allotment of the respective house. No costs.

08.01.2024

NCC:Yes/No

Index:Yes/No

Internet:Yes

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To

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