



W.P.No.4297 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.4297 of 2024

S.Jayakumar

... Petitioner

Vs.

1.The Management Director
Tamil Nadu Housing Board, CMDA Building
E & C Market Road, Koyambedu
Chennai 600 107.

2.The Manager (Marketing and Service)
Tamil Nadu Housing Board JJ Nagar Division
TNHB Shopping Complex,
Thirumangalam, Chennai 600 101.

3.The Superintendent Engineer
Tamil Nadu Housing Board,
CMDA Building
E & C Market Road, Koyambedu,
Chennai 600 107.

....Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the second respondent in letter No.J.J.A3/33432/1993, dated 22.11.2023, quash the same, direct the second respondent to issue sale deed for the Plot No.2164 vide allotment order dated 30.01.1993, measuring an extent of 1500 sq.ft., (139.35 sq.mts) in Survey No.713/1B1-Part at Paruthipattu Village, TNHB Avadi Neighbourhood Scheme in LIG-II, Ambattur Taluk, Tiruvallur District, within a time frame.

For Petitioner : M/s.B.Viveka Vanan

For Respondents : Mr.D.Veerasekaran
Standing Counsel for R1 to R3
(TNHB)

ORDER

The prayer in the Writ Petition is for a certiorarified mandamus calling for the records relating to the proceedings of the second respondent in the letter dated 22.11.2023 and quash the same and to direct the second respondent to issue a sale deed for Plot No.2164, vide allotment order dated 30.01.1993, measuring an extent of 1500 sq.ft., in Survey No.713/1B1-Part



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at Paruthipattu Village, TNHB, Avadi Neighbourhood Scheme in LIG II,
Ambattur Taluk, Tiruvallur District.

2. Heard M/s.B.Viveka Vanan, the learned counsel appearing on behalf of the petitioner and Mr.D.Veerasekaran, learned counsel appearing on behalf of the respondents 1 to 3 and perused the material records of the case.

3. After hearing the parties at length, it can be seen that of the 1500 sqft., there is no dispute with reference to 1000 sq.ft as it is already allotted to the petitioner and it is stated by the respondents that a sum of Rs.28,134/- is due to the respondent Housing Board and upon payment of the same, the sale deed will be executed. As far as the remaining 500 sq.ft. is concerned, the same was not allotted to the petitioner and the petitioner had without any permission occupied the said 500 sq.ft. also.

4. On a perusal of the records, it can be seen that the petitioner had filed a Suit in OS.No.5975 of 2001 with reference to the said 500 sq.ft and the said suit for specific performance was decreed by the VI Assistant



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City Civil Judge, Chennai. The decree was passed on 17.04.2006 directing the respondent Board to execute the sale deed and directing the petitioner to pay a sum of Rs.69,000/-. It is stated that the petitioner merely made a representation and did not forward the amount immediately after the decree. The respondents also filed an appeal against the said decree. Ultimately, the appeal was dismissed on 21.10.2009.

5. In that background, the petitioner had earlier filed a Writ Petition in WP.No.21295 of 2017. The same was dismissed as withdrawn with a liberty to file an Execution Petition with reference to the decree passed in O.S.No.5975 of 2001. After the same, once again, the petitioner instead of filing the Execution Petition seems to have transferred an amount of Rs.94,000/- through RTGS to the respondents. Thereafter, once again, a second Writ Petition was filed in WP.No.11115 of 2022. Noting down that in respect of the same relief, already orders have been passed in the earlier Writ Petition, the second petition was not entertained. Thereafter, the petitioner had further sent representations to the respondents to execute the sale deed and have approached this Court with reference to the entire 1500 sqft., by



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way of this Writ Petition.

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6. It is the contention of the respondents that the petitioner has to file only an Execution Petition and the limitation period for filing the Execution Petition is also over by now and inspite of the earlier order passed, the petitioner is wrongly approaching this Court repeatedly.

7. It is the contention of the petitioner that 1500 sq.ft., was allotted in respect of a neighbour by name of G.Manoharan without any Court order and upon him approaching the respondents, they themselves have approved the additional 500 sq.ft and has got only a sum Rs.77,415/- and executed sale deed. The same benefit is to be extended to the petitioner. Though it is true that the limitation period has expired, the respondents have to consider that a plot has been allotted to G.Manoharan, neighbour of petitioner; an amount of Rs.94,000/- has been deposited by the petitioner and the same is also received by the respondents and not returned.

8. The said prayer is opposed by Mr.D.Veerasekaran, the learned



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counsel appearing on behalf of the respondent Housing Board on the ground that there is no right for the petitioner.

9. It is true that the petitioner in the normal course ought to have filed an Execution Petition upon dismissal of the appeal and the Court would execute the sale deed even if the Housing Board has not come forward. It is further true that 12 years period for filing the Execution Petition even after the deduction of the period of pendency of the appeal is now over and the petitioner has wrongly approached the Writ Court earlier. At that time, there was time and he could have filed the execution.

10. Be that as it may, eventhough the petitioner's right is determined by the Civil Court decree, dehors the same also if it is looked into, it seems that adjoining the petitioner's extent which is allotted to him being 1000 sq.ft, there exists another 500 sq.ft. Similarly for the neighbour also there existed another 500 sq.ft. Admittedly, the said 500 sq.ft is not put to any other use by the housing board and it is in the occupation of the petitioner as well as the other person. When the request was made by the other person



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who did not even go to any Civil Court and who have approached the respondent authorities themselves they have given permission and got the additional sale consideration and given him the benefit. When this Court enquired the respondents, no material is forthcoming as to what is the difference between the petitioner and the said neighbour by name G.Manoharan.

11. In view thereof, merely because the petitioner approached the Court of law, that by itself cannot be a factor for discriminating against him. In view thereof, even though the petitioner's right under the decree cannot be executed now, considering the additional factors, when this Court enquired as to how much the amount will be due and payable, by calculating additional interest and the entire cost, it is now submitted by the respondent Housing Board that over and above the sum already paid by the petitioner another sum of Rs.1,74,948/- is to be paid which is inclusive of all the interests and costs. It is also stated that a sum of Rs.28,134/- is also due in respect of the 1000 sqft.



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12. In view thereof, this Writ Petition is disposed of with the

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(i) The petitioner within two weeks from the date of receipt of the web copy of this order, to deposit the said sum of Rs.1,74,948/- and Rs.28,134/- with the Executive Engineer & Administrative Officer, Tamil Nadu Housing Board, JJ Nagar Division, TNHB Shopping Complex, Thirumangalam, Chennai-600 1001;

(ii) Upon receipt of the said amount, the respondent Board shall execute the sale deed in respect of the entire 1500 sqft in favour of the petitioner within 12 weeks from the date of payment of the sum due. It is made clear that no further extension of time will be given for the payment of the amount and the petitioner need not send any representation but pay the amount as directed.

(iii) No costs.

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Neutral Citation : No
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