

W.A.No.1279 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2025

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CORAM :

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH
and
THE HONOURABLE MR.JUSTICE C. KUMARAPPAN**

**Writ Appeal No.1279 of 2025
and CMP.No.9765 of 2025**

Indira Rajendran

.. Appellant

VS

1.The Managing Director Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai-35.

2.The Executive Engineer Tamil Nadu Housing Board,
Coimbatore Housing Unit,
Coimbatore-641012.

3.The District Registrar
The District Registrar's Office,
The District Collectorate,
Coimbatore-642 018.

4.The Sub Registrar,
The Sub Registrar's Office, Ganapathy,
Coimbatore-642 018.

5.R.Amsaveni

6.R.Srilekha

.. Respondents

Prayer : APPEAL filed under Clause 15 of the Letters Patent against the
order dated 25.03.2025 in W.P.No.15016 of 2021 on the file of this Court.

For Appellant : Mr.T.Dharani



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For Respondents : Mr.A.M.Ravindranath Jeyapal
(for R1 & R2)

Mr.K.Karthik Jagannath (for R3 R4)
Government Advocate

JUDGMENT

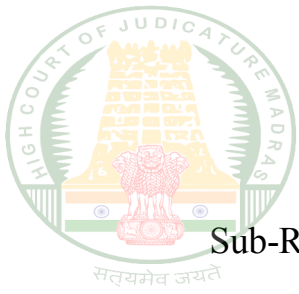
(Delivered by Dr.ANITA SUMANTH.,J)

We have heard Mr.T.Dharani, learned counsel for the appellant, Mr.AM.Ravindranath Jeyapal, learned counsel for the Tamil Nadu Housing Board/R1 and R2 and Mr.K.Karthik Jagannath, learned Government Advocate for R3 and R4. In light of the order that is proposed to be passed now in this Writ Appeal, no notice is thought necessary to R5 and R6 who are Writ Petitioners in W.P.No.15016 of 2021. The parties are referred to as per their rank and array in this appeal.

2. There is some history to this matter. One Rajendran had been allotted a property at MIG 3504 in the sanctioned plan, Ganapathy Phase III, S.F.No.41 (part), Ganapathy Village, Coimbatore ad measuring 180 sq.m. ('property'/'subject property') under an allotment order dated 23.11.1992 issued by the Tamil Nadu Housing Board. He passed away on 21.09.2023.

3. While so, the authorities of TNHB had executed a Deed of sale dated 02.02.2009 registered as document No.687 of 2009 on the file of the

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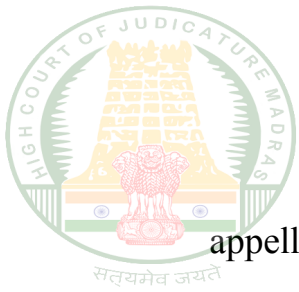
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Sub-Registrar of Registration, Ganapathy, Coimbatore District relating to the subject property in favour of the appellant. W.P.No.10251 of 2014 thus came to be filed by R5 and R6 praying for a mandamus directing the Tamil Nadu Housing Board to cancel sale deed dated 02.02.2009 relating to the subject property. There was a consequential prayer seeking a direction to the Executive Engineer of the Tamil Nadu Housing Board to execute a sale deed in favour of R5 and R6 after receiving the sale consideration as per allotment order dated 23.11.1992 issued in favour of K.Rajendran.

4. To be noted that R5 and R6 are the widow and daughter of deceased Rajendran and the present appellant was arrayed as R4 in that Writ Petition. By order dated 10.03.2015 that Writ Petition came to be disposed simplicitor, directing the authorities to consider the representations given by R5 and R6 by issuing notice to them as well as to the appellant and pass orders.

5. Those proceedings culminated in favour of R5 and R6 as, after enquiry, the officials of the Tamil Nadu Housing Board passed an order on 08.07.2015 stating that the sale deed executed in favour of the appellant was liable to be cancelled. That order came to be challenged by the



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appellant in W.P.No.22760 of 2015, wherein R5 and R6 were arrayed as

WEB COPY R4 and R5.

6. By way of a detailed order dated 02.11.2022, the Writ Court dismissed the Writ Petition categorically attributing fraud upon both the appellant as well as the officials of the Tamil Nadu Housing Board. There is a clear finding to the effect that an allotment was made in favour of the deceased Rajendran, who had paid the initial deposits as well as the instalments thereafter, regularly. The learned Judge finds that no material was available on record to establish that the appellant had made any payments at all towards the subject allotment.

7. The relevant discussion is at paragraphs 7 to 9 which are extracted below:

7. Admittedly, it is not disputed by the first respondent that the subject property has been originally allotted to one K.Rajendran, lease cum sale agreement has been executed and the plot has been handed over to the said Rajendran on 26.02.1994 and he was required to pay the monthly instalments. After his death, it appears that out right sale has been executed in favour of the petitioner claiming to be wife of the said Rajendran. Thereafter, on coming to know about the above sale deed, the fourth and the fifth respondents have filed a Writ Petition in W.P.No.10251 of 2014 and this Court by an Order dated directed the first respondent to conduct enquiry by issuing notice to the petitioner and the fourth and fifth respondents and after enquiry, the first respondents had passed the impugned Order holding that the allotment has been made in favour of



K.Rajendran and he had paid the initial deposit and the instalments regularly. But, no document, whatsoever, has been filed to show that consideration of Rs.2,15,000/~ has been paid by the petitioner.

8. Whereas, the sale deed has been executed in favour of the petitioner for a total consideration of Rs.85,500/~ and the officials of the Tamilnadu Housing Board appears to have executed the sale deed in favour of the petitioner. On enquiry, it was found that no payment has been made. Though it is claimed by the petitioner that a sum of Rs.2,50,000/~ has been paid, no receipt has been filed. Therefore, the impugned Order has been passed cancelling the sale deed and during the enquiry it is also found that there is collusion between the petitioner and the officials and the Order also directed action against the officers who have colluded and executed such sale deed. Accordingly, the first respondent had passed the impugned Order cancelling the sale deed. Though once sale deed is executed, by an Order it cannot be annulled, this Court is of the view that as the very allotment is in favour of the fourth respondent-s husband and the entire sale consideration has been paid by them, execution of the sale deed in the name of the petitioner, in the later date, suppressing the earlier allotment in favour of the husband of the fourth petitioner, that too after receipt of consideration, would not convey any title to the petitioner as the sale deed itself is a result of some misrepresentation and falsification of records.

9. In such view of the matter, though legally the Housing Board cannot unilaterally cancel the sale deed by way of the impugned Order, the proper way of cancellation of the sale deed is to file necessary application before the registering authorities as per Section 77[A] of the Registration Act for cancelling the sale deed to make necessary entries in the book and thereafter, the Housing Board shall execute necessary sale deed in favour of the 4th and 5th respondents as per law. If any such application filed by the Housing Board before the District Registrar, the same shall be decided within a period of three months, after giving opportunity to the parties.



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8. It is relevant to note that the above order has attained finality.

Thus, it is established that sale deed dated 02.02.2009 has been executed collusively qua the appellant and the authorities of the Tamil Nadu Housing Board and no consideration whatsoever has been paid by the appellant. With the attainment of finality of order dated 02.11.2022, all the findings of fact therein also become unimpeachable.

9. At that time of admission of W.P.No.22760 of 2015, an interim order had been obtained by the present appellant and a petition for vacate stay filed by R5 and R6. The vacate stay petition in M.P.No.2 of 2015 in W.P.No.22760 of 2015 came to be allowed on 25.07.2018 and the interim order granted on 28.07.2015 stood vacated. The Court directed the competent police officials to proceed with the investigation and arrive at the truth of the matter.

10. Pursuant to that, an order had come to be passed on 12.06.2020 wherein the District Registrar/R3 directs the parties to approach the Civil Court. As W.P.No.22760 of 2015 ultimately came to be closed adverse to the appellant on 02.11.2022, order dated 12.06.2020, in our view ceases to have any force whatsoever as does the consequential direction therein to the parties to approach the Civil Court.



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11. We now come to the third Writ Petition qua the parties which has been filed at the instance of R5 and R6 in W.P.No.15016 of 2021, wherein they seek to challenge order dated 12.06.2022. We are of the view that this prayer is, unnecessary, as, with the allowing of W.P.No.22760 of 2015 on 02.11.2022, order dated 12.06.2020, consequently loses force.

12. Be that as it may, there was a challenge to that order with consequential directions sought to the District Registrar to rectify the error committed by the Sub-Registrar, Coimbatore by registering fraudulent sale deed dated 02.02.2009 and to the Executive Engineer, Tamil Nadu Housing Board to register the sale deed in favour of R5 and R6.

13. It is that Writ Petition which has come to be allowed on 25.03.2025, the Writ Court reiterating the findings of fact against the appellant under order dated 02.11.2022. The operative portion of order dated 25.03.2025 is as follows:

8. In the case in hand, it is seen that the 5th respondent had managed to get the Sale Deed executed in her favour by projecting herself to be the widow of Rajendran. On carefully reading the order passed by the Managing Director of Tamil Nadu Housing Board dated 08.07.2015, it is seen that a fraud has been committed with the connivance of the officials of the Housing Board and that is the reason why the Managing Director had directed for the cancellation of the Sale Deed. The 1st petitioner is the wife



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of the said Rejendran and the 2nd petitioner is the daughter and they are the legal heirs of Rajendran. Hence, the allotment that was made in favour of the said Rajendran will automatically enure in favour of the petitioners. If the 5th respondent has managed to create a fraudulent document by projecting as if she is the wife of Rejendran, such a document becomes non est in the eye of law and such document was executed in favour of the 5th respondent only with the connivance of the officials belonging to the Tamil Nadu Housing Board who are facing criminal prosecution in Crime No.67 of 2017. The order passed by the Managing Director of the Tamil Nadu Housing Board dated 08.07.2015 must reach its logical conclusion and the only way in which it can be done is to declare the Sale Deed executed in favour of the 5th respondent dated 02.02.2009 as null and void and non est in the eye of law. Once such declaration is made, there will be no bar for the Tamil Nadu Housing Board to execute the Sale Deed in favour of the petitioners who are the legal heirs of the original allottee.

9.In the result, this Court holds that the Sale Deed dated 02.02.2009 executed in favour of the 5th respondent is null and void and non est in the eye of law. There shall be a direction to the 2nd respondent to execute the Sale Deed in favour of the petitioners with respect to the subject property and present it for registration before the 4th respondent. The 4th respondent on receipt of the same shall register the Sale Deed, if it is otherwise in order.

10.In the result, this writ petition stands allowed with the above directions. No Costs. Consequently, connected miscellaneous petition is closed.

14. The learned Judge has taken pains to refer to Section 77A of the

Registration Act proceeding on the basis that order dated 12.06.2020 might have been passed under that provision. However, we are of the view that order has been passed pursuant to the direction issued by the Writ Court in W.P.No.10251 of 2014 and, in fact, is not an order invoking



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Section 77A at all.

WEB COPY 15. Be that as it may, as we have already noted, there is no force whatsoever to order dated 12.06.2020 pursuant to final order passed by this Court on 02.11.2022. In light of the factual position as we have set out above, we concur with the setting aside of sale deed dated 02.02.2009 in favour of appellant as null and void, and find no cause for intervention in the conclusion of the Writ Court in order dated 25.03.2025.

16. We reiterate the direction to R5 to execute the sale deed in favour of R5 and R6 within a period of four (4) weeks from date of uploading of this order on the official website of this Court.

17. This Writ Appeal and the connected Miscellaneous Petition are dismissed. No costs.

[A.S.M., J] [C.K., J]
22.04.2025

sl
Index:No
Speaking order
Neutral Citation:Yes



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DR. ANITA SUMANTH,J.
and
C. KUMARAPPAN.,J

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To

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Chennai-35.
- 2.The Executive Engineer Tamil Nadu Housing Board,
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