



W.P.No.34151 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.34151 of 2024

R.SURENDIRAN

... Petitioner

Vs

1. THE MANAGING DIRECTOR,
TAMIL NADU URBAN HABITAT DEVELOPMENT BOARD,
NO.5, KAMARAJAR SALAI, CHENNAI- 600 005.
2. THE ESTATE OFFICER
ESTATE OFFICE- 3,
TAMIL NADU URBAN HABITAT DEVELOPMENT BOARD,
T.P.CHATHRAM,
CHENNAI- 600 010.
3. THE EXECUTIVE ENGINEER
DIVISION-3,
TAMIL NADU URBAN HABITAT DEVELOPMENT BOARD,
CHENNAI-10.

4. RAJAN

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the first respondent to take appropriate action based on the report submitted by the second respondent vide her proceedings in Na.Ka.No.467/A/E.A.3/2023 dated 31.10.2023 and thereby to cancel the allotment issued in favour of the fourth respondent and to issue fresh allotment in petitioner's favour for the residential house bearing old Door No.496, New Door No.2/222 Situated in the Tamil Nadu Urban



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Development Residential Houses, N.V.N.Nagar, Thirumangalam Project Area, Chennai - 40, by considering his representation dated 02.09.2024 within the time limit to be stipulated by this Court and further direct the third respondent to provide necessary protection to the petitioner.

For Petitioner : Mr.S.Senthilkumar
For R1 to R3 : Mr.S.Karthikeyan
Standing Counsel for TNUHDB
For R4 : Mr. Adarh Subramanian

ORDER

This writ petition is filed for a mandamus directing the first respondent to take appropriate action based on the report submitted by the second respondent vide proceedings dated 31.10.2023 and thereby to cancel the allotment issued in favour of the fourth respondent and to issue fresh allotment in petitioner's favour for the residential house bearing old Door No.496, New door No.2/222 situated at Tamil Nadu Urban Development Residential Houses, N.V.N Nagar, Thirumangalam Project Area, Chennai – 600 040.

2. The learned counsel for the petitioner would submit that originally the allotment was made in favour of the fourth respondent. The fourth respondent, for due consideration sold the property in favour of the petitioner. A Power of Attorney was executed, followed by a sale deed in favour of the



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petitioner. Pursuant to the petition made by the petitioner, the Estate Officer conducted an enquiry and gave his report stating that the allotment in the name of the fourth respondent should be cancelled and granted in the name of the petitioner. The learned counsel for the petitioner would submit that inspite of the same, no action has been taken by the first respondent till date and therefore, the writ petition should be allowed.

3. The learned Standing Counsel appearing on behalf of the Tamil Nadu Urban Habitat Development Board would submit that it is true that the petitioner obtained a document from the fourth respondent on the same day and the Executive Engineer was directed to conduct an enquiry. In turn, the Estate Officer conducted an enquiry and submitted the report. In this case, the allotment was made in favour of the fourth respondent and before the execution of the sale deed, the fourth respondent was not supposed to alienate the property. Therefore, the report of the Estate officer by itself would not be binding on the Managing Director. The Managing Director will consider the request of the parties, issue notices to both the petitioner and the fourth respondent and take action in accordance with the law.



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4. The learned counsel appearing on behalf the fourth respondent would submit that the transaction was not at all a sale transaction. To meet urgent hospital expenses, when the petitioner borrowed money to the tune of Rs.5,00,000/- and the fourth respondent was directed to sign some blank papers, which the respondent used to create a power of attorney as well as a sale deed. The fourth respondent never sold the property to the petitioner and therefore, the allotment cannot be changed.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. If it is the case of the fourth respondent that this is not a sale transaction, but merely a loan transaction and that the amount borrowed is ready to be repaid, it is for the fourth respondent to approach the appropriate Civil Court against the petitioner with reference to the said prayer. This Court cannot decide the issue in these proceedings. As far as the prayer of the petitioner is concerned, as rightly contended by the learned counsel appearing on behalf of the first Respondent Board, it is for the Managing Director to



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consider the transaction in accordance with law and their rules and to pass orders thereon. Therefore, the same shall be done by giving an opportunity to both the petitioner and the fourth respondent.

7. It is also reported that there is another person who is now residing in the tenement. Therefore, notices can be issued to that person as well. The first respondent shall conduct further inquiry based on the report of the Estate Officer dated 31.10.2023, by issuing notices to the petitioner, the fourth respondent and the occupant of the tenement and decide the issue in accordance with law. Needless to mention that the parties will be entitled to raise all the objections before the first respondent. The said exercise shall be completed within a period of eight weeks from the date of receipt/production of the website uploaded copy of this order, without waiting for the certified copy of this order. No costs.

17.02.2025

Neutral Citation: Yes/No
nsl



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WEB COPY

To

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CHENNAI-10.



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D.BHARATHA CHAKRAVARTHY, J.

ns1

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