



W.P.(MD).No.4071 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.02.2025

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.4071 of 2022

N.Chithrakala

.. Petitioner

Vs.

1.The Manager,
Tamil Nadu Housing Board,
CMDA Complex, E and C Market Road,
Koyambedu, Chennai.

2.The Executive Engineer and Administrative Officer,
Tiruchirappalli Housing Unit,
Kajamalai Road,
Tiruchirappalli - 620 020.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the 2nd respondent to issue the Conveyance Deed in the name of the petitioner by considering the representation dated 14.02.2022 in respect of the property in S.F.No.310, House No.HIG-A-335 situated in Navalpattu, Trichy, Trichy District.

For Petitioner : M/s.Sheena Palanivelu

For R-2 : Mr.M.Suresh



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ORDER

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The writ petitioner seeks for Mandamus, directing the second respondent Housing Board to execute a conveyance deed in her name for the property situated at HIG-A-335, Navalpattu, Tiruchirappalli District.

2. There is no dispute on the facts. The second respondent Housing Board had allotted the property in favour of one V.Jayakumar. The allotment order was for Rs.79,000/- in the year 1986. The said Jayakumar had mortgaged the property to M/s.Vijaya Bank. Vijaya Bank was merged with the Bank of Baroda. On account of the default committed by Mr.Jayakumar, Bank of Baroda invoked the SARFAESI Act. Subsequently, in exercise of the powers under Section 13(4) of the SARFAESI Act, the property was brought for sale. The writ petitioner participated in the auction sale held on 18.02.2011.

3. Even at the time of conducting the auction, the Bank of Baroda had made it clear that the auction is within “as is where is and as is what is basis”. The writ petitioner was the successful purchaser in the auction sale. She had paid a sum of Rs.10,55,000/- for the purchase of the property. On receipt of the amount, Bank of Baroda also issued a sale certificate to the petitioner. As the conveyance deed by the Housing Board had not yet been made in her favour, the



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writ petitioner made a representation to the Housing Board after her purchase in the year 2022, seeking for conveyance deed. Since this demand was not satisfied, she has come forward with the present Writ Petition.

4. When the matter came up for hearing, this Court had ordered notice to the Housing Board.

5. When I took up the matter on 04.02.2025, the learned counsel appearing for the Housing Board informed that Jayakumar had defaulted in payment of Rs.83,561/- to the Housing Board. He states that if this amount is paid, the second respondent will willingly execute a conveyance deed in favour of the writ petitioner.

6. The learned counsel for the petitioner pleads that the petitioner is a senior citizen and she had paid a good sum of Rs.10,55,000/- to the Bank and therefore, the Housing Board is duty bound to execute a conveyance deed. He relies upon the sale certificate to press home this point.

7. I have carefully considered the submissions of the writ petitioner and the second respondent Housing Board.



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8. A Court auction sale or a sale by a Bank under the SARFAESI Act does not convey a warranty of title to the purchaser by the knock of the hammer.

What is transferred is the saleable right, which the debtor or the judgment debtor had in the property, in favour of the purchaser. It is not in dispute that Mr.Jayakumar had defaulted in payment to the Bank. The Bank had brought the property for auction in “as is where is and as is what is basis”. This shows that the Bank was conscious enough that if there was any liability in the property, the purchaser of the said property receives the same subject to the said liability.

9. The Housing Board had allotted the HIG flat in favour of one Jayakumar on certain terms and conditions. If there is a violation of these terms and conditions, as the present case discloses, then the auction purchaser should make good the loss that has been suffered by the Housing Board prior to making a demand for conveyance of the property.

10. The Housing Board, as per its records, recorded the default by Mr.Jayakumar to a tune of Rs.83,561/-. The report that has been filed by the Standing Counsel for the Housing Board discloses that Mr.Jayakumar had only paid the tentative cost of Rs.79,000/- and had not paid the final cost. The difference between the tentative cost and the final cost is arrived, on account of



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the amounts that the Housing Board incurred towards payment of compensation for acquisition of the land and for legal expenses connected therewith.

11. If the petitioner wants a conveyance deed to be executed, she would necessarily have to pay the amount of Rs.83,561/-. The petitioner is granted eight (8) weeks' time to pay the said amount of Rs.83,561/-. On receipt of this amount, the Housing Board shall execute the conveyance deed without brooking any further delay.

12. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs.

05.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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V.LAKSHMINARAYANAN,J.

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