

W.P.(MD)No.12188 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.04.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD) No.12188 of 2024

1.P.Vaidehi

2.Shyamala Rajagopalan

... Petitioners

vs.

1.The Regional Deputy Registrar (Housing),
Trichy Region,
No.16/3, Samathu School Street,
Khaja Nagar,
Mannarpuram,
Tiruchirapalli 20.

2.The Administrator / Co-operative Sub Registrar,
R.786, Tiruchirapalli Co-operative House,
Construction Society Ltd.,
Makkal Mandram,
Colony Main Road,
Thillai Nagar,
Tiruchirappalli.

3.V.Subbaraman

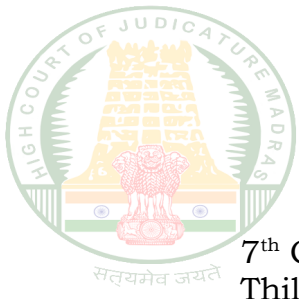
4.V.Balasubramanian

5.L.Banumathi

6.S.Bhuvaneswari

7.The Sub Registrar,
Thillainagar,
Tiruchi Corporation Commercial Complex,

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7th Cross Street,
Thillainagar,
Trichy 620 018.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in its Letter No.Nil dated 23.04.2024 and quash the same and consequently direct the 2nd respondent society to cancel the Conveyance Deed registered as Document No. 878/2007 dated 23.02.2007 on the file of the SRO, Tiruchi and executed in favour of Late Sivakumar and directly executed a Conveyance Deed in favour of the petitioners in respect of the property bearing No. Plot No. C.48, North Eastern Extension, Thillai Nagar, Trichy by duly recognising their rights as full owners and by treating them on par with the original allottee.

For Petitioners :Mr.V.Vijayashankar

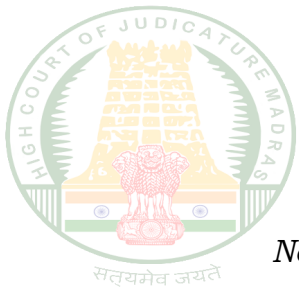
For R1, R2 & R7 :Mr.P.T.Thiraviyam
Government Advocate

For R3, R4 & R6 : Mr.S.Premkumar

ORDER

The petitioners seek for the following relief:

“Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in its Letter No.Nil dated 23.04.2024 and quash the same and consequently direct the 2nd respondent society to cancel the Conveyance Deed registered as Document



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No. 878/2007 dated 23.02.2007 on the file of the SRO, Tiruchi and executed in favour of Late Sivakumar and directly executed a Conveyance Deed in favour of the petitioners in respect of the property bearing No. Plot No. C.48, North Eastern Extension, Thillai Nagar, Trichy by duly recognising their rights as full owners and by treating them on par with the original allottee.”

2.The property situated at Plot No.C48, North Eastern Extension, measuring an extent of 4000 sq.ft. Thillai Nagar, Tiruchirappalli, belonged to R.786, Tiruchirapalli Co-operative House Construction Society Limited. One Seethalakshmi miamal was a member of the Society. She was allotted to the said property on payment of Rs. 27,389.40/-. Seethalakshmi miamal had made substantial payment leaving a balance of Rs.4,610.60/-. She sold the property in favour of one K.S.Sellam by way of a registered document on 04.07.1974. Mrs.K.S.Sellam was in enjoyment and possession of the property till she passed away on 10.11.2020.

3.The petitioners are the daughters of K.S.Sellam. Seethalakshmi miamal had two sons, namely, Venkataraman and Sivakumar. Seethalakshmi miamal passed away in the year 1995.



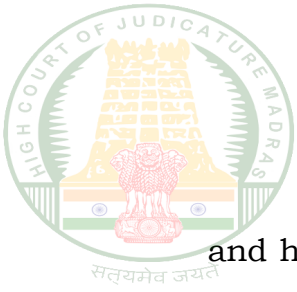
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Venkataraman passed away in the year 1999. The Society, on the basis of the records available with it, finding that all its dues had been paid, executed a conveyance deed in favour of Seethalakshmiammal's surviving son, Sivakumar, on 23.02.2007. The said Sivakumar also passed away on 21.05.2021. It is alleged that Sivakumar had no Class I heirs and the respondents 3 to 6 are the Class II heirs of Sivakumar, namely, the children born to Venkataraman.

4. When the petitioners attempted to alienate the property, they were surprised to know that in the encumbrance certificate, the sale deed executed by the second respondent Society in the name of Sivakumar is finding a place. Therefore, they called upon the second respondent Society to cancel the conveyance deed executed in favour of Sivakumar so as to perfect their title. They made a representation to that effect to the second respondent Society, who rejected the same. Hence, this Writ Petition.

5. The writ petition was entertained and notice was issued to the respondents. The private respondents have entered appearance and have conceded to the fact that Seethalakshmiammal had executed a registered sale deed in favour of the petitioners' mother on 04.07.1974



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and had also received a sale consideration of Rs.37,000/-. They agree that K.S.Sellam had paid a sum of Rs.27,389.40/- to Seethalakshmiammal and the balance of Rs.4,610.60/- was to be paid by K.S.Sellam directly to the Society.

6.The counter affidavit in paragraph No.4 concedes that possession was handed over to K.S.Sellam and she was in possession of the property till her death. The respondents have stated that as the legal heirs of Seethalakshmiammal, Venkataraman and Sivakumar, they have no objection if this Court passes suitable directions to the second respondent, to effectuate and convey the title and ownership, to the writ petitioners in recognition of the sale made by their grandmother in favour of the mother of the petitioners.

7.Mr.P.T.Thiraviyam has filed a counter relying upon by-law No. 37-A of the second respondent Society. He pleads that the alienation made by Seethalakshmiammal in favour of K.S.Sellam is erroneous. Further, the sale deed was executed in the year 2007 and the request was made by the petitioners in 2024. Hence, the same is hopelessly barred by limitation. Hence, he urges for dismissal of this writ petition.



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WEB COPY 8.I have carefully gone through the records. I have heard the learned counsel for the parties.

9.Here is a case, where the alienation made by the original allottee in favour of the mother of the petitioners is not in dispute. It is also not in dispute that the purchaser, K.S.Sellam, was enjoying the property for nearly 50 years. The private respondents do not have any objection for this Court to give a direction to convey proper title in favour of the petitioners. In other words, they stand by the sale deed executed by their grandmother in favour of the petitioners' mother.

10.Though Mr.V.Vijay Shankar pleads that the sale deed executed in favour of Sivakumar must be canceled, I feel that should be an unnecessary exercise. Solution can be found under Section 43 of the Transfer of Property Act, 1882. The plea of the second respondent Society is that the alienation made by Seethalakshmiammal, in favour of K.S.Sellam, is an erroneous one and contrary to the by laws.



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11. Under Section 43 of the Transfer of Property Act, 1882, if a person erroneously transfers an immovable property and subsequently, acquires title to the same, then, at the option of the transferee, the interest acquired by the transferrer stands transferred to the transferee. This Section recognizes the principle of feeding of title by estoppel.

12. By virtue of the sale executed in favour of Mr. Sivakumar, the title of K.S. Sellam, even if it had been erroneously transferred, shows that the estate of Seethalakshmiammal has acquired title subsequent to the alienation in the year 1974. By operation of the Transfer of Property Act, 1882, whatever title had been alienated in favour of K.S. Sellam having been confirmed by the 2007 document, the title of K.S. Sellam stands crystallized. The view taken by me is in line with the view rendered by the Supreme Court in ***Renu Devi Vs. Mahendra Singh and others, (2003) 10 SCC 200.***

13. The petitioners need not be aggrieved by the fact that the sale deed stands in the name of Sivakumar. This can be easily addressed by the petitioners presenting this order for registration before the 7th respondent.



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WEB COPY 14. In the light of the clear and categorical stand taken by the respondents 3 to 6, this Writ Petition is disposed of with the following terms:-

i) The petitioners' mother's, K.S.Sellam, title to the property situated at Plot No.C48, North Eastern Extension, measuring an extent of 4000 sq.ft. Thillai Nagar, Tiruchirappalli, stands crystallized, by virtue of operation of Section 43 of the Transfer of Property Act, 1882.

ii) The sale made by the second respondent in favour of Mr.Sivakumar, who was representing the estate of Seethalakshmiammal, confirms the title of the writ petitioners' mother and consequently of the writ petitioners themselves.

iii) The petitioners shall present this order for registration with the 7th respondent and the 7th respondent shall register the document.

No costs.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No

23.04.2025

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V. LAKSHMINARAYANAN, J.

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