

(2005) 06 MAD CK 0114

In the Madras High Court

Case No : Review Application No's. 65 and 70 of 2004 and Contempt Petition No. 153 of 2005

M. Ramaswamy

APPELLANT

Vs

Raghu Bale Rao rep. by authorised agent T. Aravindan, The Managing Director, Tamil Nadu Housing Board and The Executive Engineer/Administrative Officer K.K. Nagar Division TNHB
The Managing Director, Tamil Nadu Housing Board and The Executive Engineer and Admn. Officer, K.K. Nagar Division, Tamil Nadu Housing Board Vs Raghu Bhale Rao, rep. by authorised agent T. Aravindan
Raghu Bhale Rao, rep. by Authorised Agent T. Aravindan Vs Surjit Singh Choudry, I.A.S., (Formerly Managing Director), Ashok Donkra, I.A.S., The Managing Director, Tamil Nadu Housing Board and Kannan, I.A.S., The Executive Engineer/Administrative Officer K.K. Nagar Division, Tamil Nadu Housing Board

RESPONDENT

Date of Decision : 24-06-2005

Acts Referred:

Citation : (2005) 06 MAD CK 0114

Hon'ble Judges : M. Chockalingam, J

Bench : Single Bench

Advocate : P.B. Ramanujam, in Rev.app. 65/2004, D. Veerasekaran, in Rev.app. 70/2004 and C. Prakasam, in Cont.P. 153/2005, for the Appellant; D. Veerasekaran, Respondents 2 and 3 in Rev.App. 65/2004 and Cont.P.153/2005 and C. Prakasam, 1st Respondent in Rev.App.65/2004 in Rev.App. 70/2004, for the Respondent

Final Decision : Dismissed

Judgement

M. Chockalingam, J.—This order shall govern the two review applications in Review Application Nos. 65 and 70 of 2004 and the

Contempt Petition No. 153 of 2005.

2. The first review application was filed by the third party Mr.Ramaswamy, while the second review application was filed by the respondents in the

Writ Petition No. 25713 of 2004.

3. The writ application came up for consideration before this Court on the earlier occasion i.e., on 9.9.2004. The writ petitioner sought for a writ

of mandamus directing the respondents therein to execute a sale deed in his favour in respect of the Plot No. B-272, Ashok Nagar, 10th Avenue,

Chennai, stating that it was originally allotted to his mother; that subsequently, on her death, he has been in possession; that the entire consideration

has also been paid, and under the circumstances, a direction has got to be issued to the respondents Housing Board to execute a sale deed. At that

juncture, notice was taken by the respondents' Counsel, and he was also heard. On the representation made by the learned Counsel for the

Housing Board that if the entire payment of consideration has been made, there was no impediment for the respondents to execute the sale deed in

favour of the writ petitioner Raghu Bhale Rao, this Court passed an order issuing a direction to the respondents Housing Board to execute a sale

deed in favour of the writ petitioner if the conditions stated in the order were satisfied, within a period of one month.

4. Now, the writ petitioner has filed this contempt application stating that the orders of this Court directing the execution of the sale deed, have

been disobeyed by the respondents, and hence, necessary action has got to be taken against them. At this juncture, two review applications have

also been brought forth, one by the respondents Housing Board, and the other by the third party one Mr.Ramaswamy.

5. It is true that orders were passed in the writ petition on 9.9.2004 directing the respondents Housing Board to execute a sale deed, and the sale

deed has not been executed. Thus, it would be clear that the orders of this Court have not been strictly followed. In such circumstances, the Court

has to look into whether the two review applications have got any merits.

6. The learned Counsel appearing for the Housing Board would contend that the said Plot No. B-272, 10th Avenue, Ashok Nagar, of an extent of

2 grounds was originally allotted to one Rani Lakshmi in the year 1965; that possession was handed over to the said lady in the year 1968 by the

Board; that subsequently, it was taken over by the said Ramaswamy as Manager

on behalf of the allottee; that she expired on 15.3.1986; and that after that, it continued to be in the possession of Ramaswamy. He would further add that while there has been an equal dispute between both the parties and the amounts have also been paid by them, the direction issued by this Court to the respondents Housing Board to execute a sale deed could not be complied with, and under the circumstances, the order of this Court has got to be reviewed.

7. The other review application was filed by the third party Mr.Ramaswamy on the ground that it was originally allotted to Rani Lakshmi in the year

1965; that there was a letter addressed by the said Rani Lakshmi to the Housing Board to transfer the plot in favour of Mr.Ramaswamy; but, it

was not yet done; that he got into possession, pursuant to the same; that he has raised constructions; that he is aged 80 years; that he has been in

possession all along these years; and that he has paid tax to the Corporation and the Water Board also. It is further contended by the learned

Counsel for the review petitioner Ramaswamy that the rest of the payment of consideration in respect of the allotment subsequent to the letter of

Rani Lakshmi, were made by him continuously, and thus, he has satisfied the condition, and under the circumstances, no question of execution of a

sale deed by the Board in favour of the writ petitioner would arise. Added further the learned Counsel that the original allottee Rani Lakshmi had

got two heirs, and one of them is the writ petitioner; that apart from that, the review petitioner Mr.Ramaswamy has filed a suit in C.S. No. 442 of

2003 on the file of this Court, where he has sought for a declaration that the plot belonged to him, and apart from that, he sought for consequential

permanent injunction not to disturb his possession; that the writ petitioner is the defendant therein; that the matter is pending for the past two years;

that during the pendency of the suit, the writ petitioner has approached this Court not adding him as party and has obtained orders, and under the

circumstances, to whom the allotment has got to be made is a question to be decided in the Civil Suit pending in the hands of this Court in C.S.

No. 442 of 2003, and hence, the order of this Court has got to be reviewed.

8. The learned Counsel for the writ petitioner would submit that the said plot was allotted to him, pursuant to which he has paid the entire

consideration, and under the circumstances, this Court directed the respondents

Housing Board to execute a sale deed in his favour; but, it has not been done so, and hence, action has got to be taken against them.

9. After hearing the submissions made by the respective Counsel, this Court is of the considered opinion that the order passed by this Court in the writ application has got to be set aside.

10. Admittedly, the Plot No. B-272, 10th Avenue, Ashok Nagar, was originally allotted in favour of Rani Lakshmi, and she had made certain

payments thereafter, and she died in the year 1986. According to the review petitioner Ramaswamy, there has been a letter addressed to the

Housing Board to transfer the allotment in his name, and the revenue records have also been changed in his name; that he has also made entire

payment to the Housing Board, which has been received all along, and under the circumstances, he is entitled to the property, and while it was

questioned, he has filed a suit in C.S. No. 442 of 2003 pending in the hands of this Court, where the writ petitioner is the defendant. The learned

Counsel appearing for the Housing Board would submit that the entire consideration in respect of the plot has been made. This Court is of the view

that to whom the Board should be directed to execute a sale deed has got to be decided in the Civil Suit pending in the hands of this Court. At this

juncture, this Court cannot go or investigate into the factual position of the matter. That apart, it is brought to the notice of the Court that the order

has been passed in the writ petition, where the said Ramaswamy was not a party. In such circumstances, the writ petition seeking a mandamus to

the Board has got to be dismissed.

11. Accordingly, the order of this Court dated 9.9.2004 is restored, and the Writ Petition No. 25713 of 2004 is dismissed. No costs. The

question as to the entitlement of the property between the review petitioner Ramaswamy and the writ petitioner before this Court is left open to be

decided in the Civil Suit, which would bind both the parties.

12. In the result, the review applications and the contempt petition are dismissed. No costs.