
(2013) 08 MAD CK 0275

In the Madras High Court

Case No : Writ Petition No. 30297 of 2012 and M.P. No. 1 of 2012

S. Valli

APPELLANT

Vs

Managing Director and Others

RESPONDENT

Date of Decision : 27-08-2013

Acts Referred:

Citation : (2014) 1 MLJ 558

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : G. Saseedhevi, for the Appellant; S.P. Prabakaran, R. Vijayakumar, AGP and C. Uma Shankar, for the Respondent

Judgement

T. Raja, J.—The petitioner herein seeks for issuance of a writ of certiorarified mandamus to call for the records under Reference Va.Na.Ka. No. 24484/95/E, issued by the second respondent on 11.9.1995, quash the same and direct respondents-1 and 2 to execute and register the sale deed in favour of the petitioner in respect of the residential house bearing Plot No. 322, Door No. 4, Malligai Poo Nagar, Ashok Nagar, Chennai-600093, pursuant to the allotment letter vide proceedings No. Se.Mu. No. 38981/88/2, dated 22.9.1989, of the 2nd respondent. It is the case of the petitioner that the residential property in question viz., Plot No. 322, Door No. 4, Malligai Poo Nagar, Ashok Nagar, Chennai-83, measuring an extent of 0-94-0 Sq. Meters, originally belonged to the T.N. Slum Clearance Board and it was allotted to her vide Se.Mu. No. 38981/88/2/dated 22.9.1989 and ever since the date of allotment, she was in continuous possession by duly paying the monthly installments. After the demise of her father-in-law by name Munian on 29.3.2004, she approached the Board for execution of sale deed in her favour and, on 22.12.2009, she also submitted Form P3 A to the first respondent to get the sale deed executed in her favour. When she was away from the property to visit her mother-in-law at Panruti, during 2010, she came to know that some other person/R4 had occupied the house claiming to be the allottee of the property in question. On complaining to

the Board/R2, it was communicated on 05.2.2010 that the enquiry conducted by the Board revealed that the petitioner was not residing in the property and on the other hand, R4 had purchased the property. Further, by letter dated 23.2.2011 received from the 2nd respondent, the petitioner was informed that the property in question was already allotted to R-4 by proceedings of the Board dated 23.2.2011. Even the efforts of the petitioner in invoking the provisions of the RTI Act were not fruitful as she could not get exact details on the queries raised by her and ultimately, she had to move an Appeal before the Tamil Nadu State Information Commission by way of Appeal Case No. 28828 of 2011 and only after the said Appeal came to be allowed on 8.11.2011 with a specific direction to the Board to furnish all requisite details, certain documents came to be furnished to her including a xerox copy of an unregistered sale deed said to have been executed by the petitioner's father-in-law by name Munian in favour of the 4th respondent on 14.7.1995. It is the specific claim of the petitioner that her signature was forged in the said sale deed. In the above background, since the petitioner could not retrieve her valuable property back from the 4th respondent who continues to enjoy the property in question with the assistance of the Board, the petitioner has come up with the present writ petition questioning the impugned proceedings, whereby, the Board expressed its readiness to confirm the allotment in favour of R-4 after he complies with the prerequisites mentioned therein.

2. Learned counsel for the petitioner submits that the 4th respondent, with the connivance of the officials of the Slum Clearance Board, got allotment in his favour based on fabricated sale deed i.e., the unregistered sale deed dated 14.7.1995 said to have been executed by the petitioner's father-in-law in favour of the fourth respondent and such document contains the forged signature of the petitioner as an attesting witness. The hand of the Board is clearly visible in this clandestine transaction as the Board neither issued any notice to the petitioner before issuing re-allotment order in favour of the R-4 nor cancelled the allotment issued in favour of the petitioner. Since the 4th respondent seems to be a man of sufficient means, the Board is not justified in enriching him by allotting the property which is meant for downtrodden people in the society like the petitioner. At any rate, inasmuch as the impugned allotment made in favour of R-4 is clearly discerned to be an outcome of clandestine understanding between the Board and R-4 so as to deprive of the legitimate allottee of the property viz., the petitioner, absolute interference is called for. Therefore, while pointing out that the petitioner came to be furnished with a copy of the impugned order only during December, 2011 and therefore, the point of delay or laches may not be put against her, learned counsel pleaded for interference by this Court with the impugned order and consequently, to direct the Board to execute and register the sale deed in respect of the property in question in favour of the petitioner.

3. Per contra, learned counsel appearing for Respondents-1 and 2/Slum Clearance Board would stoutly deny the allegations of clandestine understanding between the Board and the 4th respondent and state that the petitioner, in the

light of the facts borne out by the records, cannot have any claim whatsoever over the property and the Board, only after conducting exhaustive enquiries having regard to the claim of the petitioner, issued the re-allotment order in favour of the original allottee and based on the sale transaction by him, issued the impugned proceedings only after appropriate direction issued by this Court in Writ and contempt proceedings. Elaborating his argument, learned counsel would submit that the petitioner conveniently suppressed the fact that the original allottee and occupant of the property was not herself but her father-in-law viz., Munian, who was allotted the property after remitting the licence fee of Rs. 100/- as initial deposit to the Board vide receipt No. 123493, dated 09.04.1975. Since in the Eligibility List drawn by the Tahsildar, Chepauk, the name of the said Muniyan did not find place, allotment was made in the name of the petitioner. Consequently, on 5.2.1993, Munian submitted an application to the Board for re-allotment of the property in question by pointing out that the allottee-petitioner had left the premises. On such Application, two high-ranking Officials viz., Estate Officer of the Board and the Revenue Inspector conducted a Field Inquiry and by reports, dated 19.4.1993 and 7.5.1993, they conveyed that re-allotment in favour of Munian may be considered. Further, even before ordering re-allotment in favour of Munian, a Notice was issued to the petitioner vide Notice No. Na.G/4436/93/E4 on 03.08.1993. Since the petitioner was not residing in the address, affixture was effected with a clause calling for explanation from her within the time-frame prescribed in the Notice. Followed by that, after adhering to all the legal formalities, re-allotment order was passed in favour of Munian vide lease-cum-sale agreement dated 20.1.1994. Above all, when the said Munian after getting No objection Certificates from the authorities, executed a sale deed in favour of the 4th respondent, it was the petitioner who signed the document as one of the witnesses. By stating that all the above mentioned details would clearly exhibit that the petitioner has not come to court with clean hands and that she is also guilty of suppression of material particulars, learned counsel prayed for dismissal of the writ petition in threshold.

Also heard the learned Additional Government Pleader appearing for Respondent No. 3. He submitted that the impugned proceedings came to be passed after thorough enquiries with reference to the actual and original allottee as well as subsequent sale by the original allottee and that, in fact, re-allotment to the original allottee itself was made after issuing due notice to the petitioner. By reiterating the stand that the petitioner is none but a stranger to the property in question, he stated that no cause of action has arisen for the petitioner to challenge the impugned proceedings and hence, the writ petition may have to be dismissed.

4. Learned counsel appearing for the 4th respondent would submit that the petitioner has no locus standi at all to file the present writ petition, in that, she is a party to the sale deed 14.7.1995, whereby, the original allottee and the father-in-law of the petitioner viz., Munian sold away the property to the 4th respondent. In other words, the sale by Munian in favour of R-4 was well known

to the petitioner. To somehow exhibit and build up her feeble case, she did not even whisper about the allotment order issued in favour of her father-in-law. Even though the property was later allotted to the petitioner under some family arrangement, after sometime, the allotment was transferred to Munian during 1993 with the consent of the petitioner and in fact, the petitioner received some compensation from Munian for transferring the name. If the petitioner was the actual allottee and continued to be in possession, she would not have kept quiet over the alleged trespass by Munian or the 4th respondent. The sequence of events would clearly spell out that the petitioner has now come to this Court at this much remote point of time, challenging the allotment order of the year 1995, only with ulterior motives and somehow to get hold over the property which was occupied once by the petitioner but never owned by her. Also, the petitioner filed a suit in O.S. No. 5082 of 1994 on the file of the City Civil Court seeking a declaration that she is entitled for a new allotment and other relief, however, the said suit ended in compromise between Munian and the petitioner. The property was transferred to Munian in 1993 itself and the sale deed in favour of R-4 was executed by Munian on 14.7.1995 and being a witness to the said document, the petitioner was well aware of the fact that her father-in-law sold the property in question. Therefore, since it is apparent that the case and claim of the petitioner is absolutely baseless, the writ petition is liable to be dismissed.

5. I have carefully considered the rival submissions advanced on either side. The prayer of the petitioner does not deserve acceptance for the following reasons.

As rightly pointed out by the learned counsel for R-4, if the petitioner was the actual allottee, she would not have kept quiet once her property was trespassed while she was staying in and she would not have waited for more than one and half a decade to launch the writ proceedings to redeem a valuable property. The approach of the petitioner herself speaks volumes against her case and claim. As could be seen from the papers, the petitioner very conveniently suppressed the fact that the original allottee in respect of the property in question was her father-in-law Munian, who got allotment on 19.1.1975. Even during 1983, the patta was standing in the name of Munian. Even though, due to family arrangement, allotment was given to the petitioner on 23.9.1989, subsequently, after she left the premises probably with compensation, on the petition by Munian, a field enquiry was conducted by the Estate Officer of the Board and the Revenue Inspector and based on their reports dated 7.5.1993 and 19.4.1993, re-allotment was made in favour of the original allottee-Munian. Such action was preceded by notice to the petitioner followed by affixture. In fact, the field report dated 7.5.1993 reveals that the daughter-in-law/petitioner, after the demise of her husband, eloped with an individual and that the father-in-law i.e., Munian, was residing in the property taking care of her/petitioner's children. The documents produced by R-4 also now shows that the petitioner is living with her second husband in a different place. Therefore, when the records clearly show that the re-allotment in favour of the original allottee was done only after adhering to all legal formalities, the petitioner cannot now question the impugned

proceedings. Further, she also did not seriously contest the suit in O.S. No. 5082 of 1994. In fact, after filing of the said suit and just before entering into compromise, the sale in favour of R-4 by Munian was effected. Therefore, she could have very well contested the suit with all materials and claims she had, however, the suit came to be withdrawn, which gives a strong inference that the petitioner had nothing to fault with the sale transaction between the original allottee/father-in-law and the purchaser/R4. After purchasing the property from Munian, R-4 was issued with an allotment order dated 11.9.1995 in his favour and he has been making representations for about 16 years to execute the sale deed, but in vain. Ultimately, he had to move this Court by filing W.P. No. 10831 of 2011, wherein, by orders dated 27.4.2011, a direction was issued to the Board to register the sale deed in favour of R-4. Since the order was not complied with, R-4 moved a contempt petition, which was closed with a direction to complete the process of execution of sale deed after fixing the price within a period of 8 weeks from the date of receipt of a copy of the order. Viewing in the background of the above sequence of events, it is very unfortunate that the petitioner, who is virtually a stranger to the property in question, now seeks to quash the impugned proceedings issued in favour of R-4 about 17 years back based on the sale effected in his favour by the original allottee, who is none else than the father-in-law of the petitioner and about whose original allotment the petitioner never whispered before this Court. Therefore, this Court finds no good reason to accept any of the arguments advanced by the learned counsel for the petitioner.

Writ Petition fails and it is dismissed as devoid of any merit. No costs. Connected Miscellaneous Petition stands closed.