

Chitra Vs. the Managing Director

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Court : Chennai

Decided On : Apr-02-2012

Judge : Vinod K.Sharma, J.

Acts : [Constitution of India](#) - Articles 226

Appeal No. : W.P.No.23415 of 2011 and MP.Nos. 1 and 2 of 2011

Appellant : Chitra

Respondent : The Managing Director

Advocate for Def. : Mr. R. Jayaseelan, Adv

Advocate for Pet/Ap. : Mr. V. Raghavachari, Adv.

Judgement :

Prayer:- Writ Petition filed under Article 226 of the [Constitution of India](#) praying for the issuance of a Writ of mandamus directing the respondents to execute the sale deed in favour of the petitioner in respect of the property situate at B 516, EWS Quarters, Phase I, Ambattur, Madras.

ORDER

1. The petitioner has approached this Court with a prayer for issuance of writ in the nature of mandamus directing the respondents to execute the sale deed in favour

of the petitioner in respect of the property situate at B 516, EWS Quarters, Phase I, Ambattur, Madras.

2. In support of the writ petition, it has been pleaded as under:

1. I am the wife of Mohanarangan. He had been allotted plot No. B 516, EWS Quarters, Phase I, Ambattur. The allotment made in his favour in the year 1994. After paying considerable amount he was found missing from 7.7.2001. Hectic search was made for securing him and it is of no use. Complaints were made to the Police and they have also filed a final report saying that they are unable to secure him. I crave leave of this Hon'ble Court to refer to the Cr. No. 820 of 2001. I am now living with 4 of his children. My husband had been allotted Plot N o. B 516, EWS Quarters. I have paid Rs. 4000/- being the balance of amount payable to the Tamil Nadu Housing Board. The amount was paid on 8.6.2010. When I had sought for the sale deed, the Board had asked for the legal heir certificate and the report of the police.

2. I gave document furnished by the police and at that time a demand was made for the copy from the High Court declaring that we are the legal heirs of the said Mohanarangam. While I was taking steps for securing the records, the board has played fraud by attempting to transfer the property that stood in the name of my husband to third parties. This was done by Mr. Jayapaul, Executive Engineer at the intance of Andrews, the DMK councilor and Murugan, Treasurer of the local DMK wing. When I met the executive engineer, he had asked Mr. Andrews to go over to the office and the latter had called upon me to receive Rs.40,000/- and quit the place.

3. I am suffering deeply along with the children. We have no other place to stay. Except this property we have no other place. I have paid the entire amount and was expecting the sale deed in my favour as well as guardian of the children. The 2nd respondent is not clear in what he is saying wherever I am seeking for the deed of sale in his favour. I have lodged complaint against the said Jayapaul with the Board as well as to the Chief Minister of Tamil Nadu. My grievance is that when the entire amount is paid there is no legal embargo for the respondents to have the sale deed executed in my favour. After all the rights of the petitioner and

her children to have the sale deed in their favour is assured and it is the duty of the Board to ensure that the proper person has the benefit of the sale.

4. In the present case, the 2nd respondent taking advantage of the hapless situation of the petitioner has embarked in an illegal mission of knocking off with the property to politically unscrupulous elements. I state that when the board has collected the entire amount there is no legal embargo in executing the sale deed. Inasmuch as the respondent board is raising untenable and flippant plea for discharging the duties, I am constrained to approach this Hon'ble Court for redressal. I am unsure whether the property had been dealt with in favour of the third parties. As far as I am concerned or that of my husband, we have not entered into any arrangement with third parties warranting such transfer.

5. Hence, the writ petition on the following among other grounds'

- i. that the respondent No.1 is duty bound to execute the sale deed in favour of the petitioner and her children being the legal heirs of the said Mohanarangan
- ii. When the respondents have collected the entire amount from the petitioner it has no legal or moral right to withhold the execution of the sale deed.
- iii. That the respondents are under an obligation to ensure that the rightful person enjoys the property and it cannot associate itself with political personalities to knock off the property from the legal owners. Scientific land grabbing should not be indulged by the Board with the assistance of unscrupulous political group.

6. I state that I have no other alternative or efficacious remedy than to approach this Hon'ble Court and seek for the issue of writ of mandamus. I therefore, pray that this Hon'ble Court be pleased to direct the issue of writ of mandamus or any other appropriate writ or direction to direct the respondents to execute the sale deed in favour of the petitioner in respect of the property situate at B 516, EWS Quarters, Phase I, Ambattur, Madras and pass such further order or other orders and render justice.

7. I state that pending disposal of the writ petition, if the property is transferred in favour of third parties, it will seriously prejudice my legal rights. Hence, it is prayed

that this Hon`ble Court be pleased to grant ad interim injunction restraining the respondents, their men, agents, servants, subordinates from dealing with the property at door B 516, EWS Quarters, Phase I, Ambattur, Madras, pending disposal of the above writ petition and render justice."

3. Though the writ petition was prima facie not competent, as the remedy with the petitioner was to approach the Civil Court to seek decree of specific performance by leading evidence in support of the claim.

4. However, on notice by this Court, counter has been filed, wherein it has been stated, that the sale has been executed in favour of the husband of the petitioner and the photo copy of the sale deed has also been placed on record.

5. In view of the fact that the sale deed has already been executed in the name of the husband of the petitioner, no further direction are called for. The petitioner can approach the Civil Court to claim inheritance to the property in accordance with law.

6. The apprehension of the petitioner that the sale deed in favour of the husband of the petitioner is executed through the attorney is misconceived, as the title of property is in the name of the deceased husband, and after his death, the attorney agent cannot deal with property, as power of attorney has come to end with the death of the husband of the petitioner.

Disposed of. No costs. Consequently, MP.Nos.1 and 2 of 2011 are also closed.

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