

ITEM NO.35

COURT NO.11

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).2120/2010

(From the judgement and order dated 24/10/2008 in
of The HIGH COURT OF MADRAS)

AS No. 847/1994

K.GOVINDARAJULU

Petitioner(s)

VERSUS

R.NARASINGAN & ANR.

Respondent(s)

(With prayer for interim relief and office report)

Date: 05/07/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s) Mr. K.V. Vijayakumar, Adv.

For Respondent(s) Ms. N. Shoba, Adv.
Mr. V. Adhimoolam, Adv.

Mr. Guru Krishna Kumar, Adv.
Mr. S. Prasad, Adv.
Mr. K.V. Rathee, Adv.

UPON hearing counsel the Court made the following
O R D E R

Respondent No.2 - the Tamil Nadu Housing Board had allotted House No.58 at Anaikuppak to respondent No.1-R. Narasingan in 1981 subject to the terms and conditions embodied in allotment letter dated 3.12.1981. After 4 years and 4 months, respondent no.1

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entered into an agreement with the petitioner for sale of the said house. After another 5 years, the petitioner filed suit for specific performance of the agreement for sale, which was decreed by the trial Court vide judgment dated 22.2.1994. The trial Court

ordered respondent No.1 to compel respondent No.2 to obtain the transfer of right in his favour and thereafter execute the sale deed.

On appeal by respondent No.1, the learned Single Judge of the High Court modified the decree in the following terms:

"The trial Court decree is, therefore, modified to the extent that the plaintiff shall be entitled to make an application to the Housing Board namely the second defendant and seek for execution of the sale deed or make an assignment in the manner known to law in favour of the plaintiff within a period of eight weeks from the date of receipt of copy of the judgment. If for any reason such an

exercise is not possible and the board declines the request for reasons to be stated, the plaintiff shall be entitled to a decree against the first defendant for the entire amount of Rs.44,000/- interest at 12% from the date when the whole sale consideration had been paid to the Housing Board till the date of return by the first defendant." with the

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We have heard learned counsel for the parties and perused the record.

Admittedly, respondent No.2 was not a party to the agreement for sale entered into between the petitioner and respondent No.1. Therefore, the trial Court could not have issued any direction compelling the said respondent to transfer the right of the house in favour of respondent no.1 and the learned Single Judge did not commit any error by modifying the decree passed by the trial Court.

During the course of hearing, we repeatedly enquired from the learned counsel for the petitioner whether there is any provision under which respondent no.2 can be compelled to transfer the house in favour of the petitioner, but he could not draw our attention to any such provision. Therefore, we do not find any justification to interfere with the impugned judgment.

The special leave petition is accordingly dismissed.

(A.D. Sharma)
Court Master

(Phoolan Wati Arora)
Court Master