



W.P(MD)No.13161 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13161 of 2015

L.Solaiappan

... Petitioner

Vs

1.The Chairman,
Tamil Nadu Housing Board,
Anna Salai,
Chennai.

2.The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Ellis Nagar, Madurai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to issue No Due Certificate to the Petitioner based on the Petitioner's representation dated 07.04.2015 within the time stipulated by this Court.

For Petitioner : No Appearance

For Respondents : Mr.R.Sivakumar
Standing Counsel



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ORDER

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None appeared for the writ petitioner. The case is directed to be posted under the caption “for dismissal”. Today also there is no representation.

2. I went through the contents of the affidavit filed in support of the writ petition. The petitioner was allotted the petition mentioned house by the respondent Housing Board in the year 1997. The petitioner was to pay a sum of Rs.2,92,099/- (Rupees Two Lakhs Ninety Two Thousand and Ninety Nine only) in monthly installments. The petitioner was in occupation of the premises till 2005. Since the petitioner was unable to raise loan, he handed over the possession of the property to the Housing Board. The petitioner requested the respondents to issue him “No Due Certificate”. Since it was not given, the present writ petition came to be filed.

3. The respondents have filed counter affidavits and the learned Standing Counsel took me through its contents. According to the respondents, the petitioner was obliged to pay a further sum of Rs.2,30,000/- (Rupees Two Lakhs and Thirty Thousand only) in the year 2005 itself and that therefore prayer cannot be granted.



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4. I carefully consider the issue. Admittedly, it is not in dispute that the petitioner had remitted a sum of Rs.87,000/- (Rupees Eighty Seven Thousand only) between 1997 and 2005 when he was in occupation of the allotted house. He had handed over the possession of the house to the Housing Board in the year 2005 itself. Nothing stopped the Housing Board from reallocoting the house or reauctioning the house. No restraint order was issued by any competent Court. The petitioner had made it clear that he is no longer interested in the property. It is strange that till date, the property has not been allotted to anybody else. It is still in the possession of the Housing Board. If the Housing Board had reauctioned property and as a result of such reallootment had suffered loss, the same could have been fastened on the writ petitioner. In that event, the Housing Board would have been justified in not issuing any No Due Certificate unless the loss was made good. Admittedly, it is Housing Board that has to blame itself for not reallocoting or reauctioning the property. It is not as if the petitioner had not paid anything to the Housing Board for the period of occupation. He had remitted a sum of Rs.87,000/- (Rupees Eighty Seven Thousand only). The Housing Board cannot take advantage of its own wrong. The consequence cannot be visited on the writ petitioner. The second respondent is directed to issue “No Due Certificate” to the petitioner immediately and without any delay.



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5. This writ petition is allowed accordingly. There shall be no order as to costs.

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

To

1.The Chairman,
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Anna Salai,
Chennai.

2.The Executive Engineer and
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G.R.SWAMINATHAN, J.

MGA

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