

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

WP(C).No. 4292 of 2010 (J)

PETITIONER(S):

**K.MOHANAN, S/O.KUNJI KRISHNAN,
AGED 48, 'BHAVANA', NELLIVILA, ANTHIYUR,
BALARAMAPURAM P.O., THIRUVANANTHAPURAM.**

BY ADV. SRI.K.S.AJAYAGHOSH

RESPONDENT(S):

- 1. THE REGIONAL ENGINEER, KERALA STATE,
HOUSING BOARD, SANTHI NAGAR, THIRUVANANTHAPURAM.**
- 2. EXECUTIVE ENGINEER, DIVISION II, KERALA
STATE HOUSING BOARD, SANTHI NAGAR, THIRUVANANTHAPURAM.**
- 3. KERALA STATE HOUSING BOARD,
SANTHI NAGAR, THIRUVANANTHAPURAM,
REPRESENTED BY ITS SECRETARY.**

**BY ADV. SRI.POOVAPPALLY M.RAMACHANDRAN NAIR, SC
BY ADV.SRI.GEORGE BOBAN, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
29-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE RECEIPT NO.129821 DTD.18.4.2007 ISSUED BY
3RD RESPONDENT.**

**EXT.P2: TRUE COPY OF THE LETTER NO.BPM/COC/21/AUCTION-SHOP NO.24
DTD.18.4.2007 ISSUED BY 1ST RESPONDENT.**

**EXT.P3: TRUE COPY OF THE RECEIPT NO.129868 DTD.25.4.2007 ISSUED BY
3RD RESPONDENT.**

**EXT.P4: TRUE OFFICE COPY OF THE LAWYER NOTICE DTD.16.10.2009 ISSUED BY
THE PETITIONER.**

**EXT.P5: TRUE COPY OF THE REPLY NO.BPLM/COC/SHOP NO.24 DTD.6.1.2010 ISSUED
BY THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

EXT.R3(a): PHOTOCOPY OF THE LETTER NO.BLPM/COC/SHOP NO.32 DTD.18.4.2007.

EXT.R3(b): PHOTOCOPY OF THE LETTER NO.BLPM/COC/SHOP 24 DTD.18.4.2007.

**EXT.R3(c): PHOTOCOPY OF THE RECEIPT DTD.25.4.2007 WITH REGARD TO
SHOP NO.32.**

**EXT.R3(d): PHOTOCOPY OF THE RECEIPT DTD.25.4.2007 WITH REGARD TO
SHOP NO.24.**

EXT.R3(e): PHOTOCOPY OF THE LETTER DTD.21.5.2007.

**EXT.R3(f): PHOTOCOPIES OF THE LETTERS DTD.25.6.2007, 22.9.2007, 23.11.2007
AND 11.3.2008.**

EXT.R3(g): PHOTOCOPY OF THE LETTER NO. BLPM/COC/SHOP 24 DTD.21.6.2008.

**EXT.R3(h): PHOTOCOPY OF THE LETTER DTD.3.12.2007 SUBMITTED TO THE
CHAIRMAN OF THE BOARD OF THE PETITIONER.**

EXT.R3(i): PHOTOCOPY OF THE LETTER DTD.19.10.2007 SENT BY PETITIONER.

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. VINOD CHANDRAN, J.

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W.P.(C) No.4292 of 2010 - J

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Dated this the 29th day of June, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the allotment as per Ext.P2 has not been made to the petitioner regarding the auction sale of shop room No.24, which he successfully bid. The 3rd respondent had conducted an auction of the shop rooms in one Balaramapuram Shopping Complex. The petitioner is said to have applied for shop room Nos.24 and 32. The issue raised in the above writ petition is only with respect to refusal of allotment of shop room No.24.

2. The petitioner had paid the EMD as per Ext.P1. On the petitioner's successful bid, Ext.P2 communication was issued. Ext.P2 indicated that the petitioner will have to pay Rs.63,825/-, being 15% of the bid amount within 25.04.2007 and the balance amount of Rs.3,61,675/- within one month from the date on

which the bid is confirmed in his name. The petitioner is said to have deposited the initial amount being Rs.63,825/- by Ext.P3. The petitioner contends that he was not served with any communication and he had to issue a lawyers notice which is seen at Ext.P4, pursuant which a reply was received as per Ext.P5.

3. The petitioner in addition to disputing the notices said to have been issued to him, also contends that Ext.P5 would belie the contention of the Board, on a plain reading of the said communication. The contention is that when the petitioner was said to have been granted time till 20.06.2008, the Board in Ext.P5 itself refers to a decision of 16.02.2008, which cancelled his bid. With respect to the contention that the Board cancelled its bid by a decision dated 16.02.2008, the learned Counsel for the respondent Board submits that the Board's decision at 16.02.2008 was a decision by which the successful bids were confirmed and the notices were issued directing the successful

bidders to pay the balance amounts as indicated at Ext.P2.

4. A reading of Ext.P5 would indicate that the Board's decision referred to at 16.02.2008 was specifically noticed in the communication, only to inform the petitioner that the decision to cancel the bid and forfeit the amounts remitted, was as per the aforesaid decision of the Board. The decision to confirm the successful bids hence also contained a further stipulation that, on deposits not being made as directed, the bid would stand cancelled. After confirmation of the bid, the petitioner had been issued various communications to make the balance deposit, which admittedly the petitioner did not comply with. The petitioner would also contend that the petitioner had sought for adjustment of the amounts paid towards shop room No.32, as the balance amounts in shop room No.24. The communication addressed by the petitioner is produced at Ext.R3(h), which is dated 03.12.2007. Even going by Ext.P5 communication, it is very

evident that there could be no adjustment made of the amounts remitted in shop room No.32 since it was confirmed in favour of the petitioner and was transferred to the another person by the petitioner himself.

5. Further, though the petitioner disputes the various communications, it is evident that the petitioner was informed of the successful bid on 18.04.2007 and directed to pay the balance amounts. The petitioner also filed an application as indicated in Ext.R3(h) before the respondent Board in December 2007 for adjustment. The contention that no notice was received is hence a deliberate falsehood. The petitioner also made the first deposit as per Ext.P2. It was his obligation to satisfy the balance too within the time stipulated.

6. The petitioner also did not take any steps to agitate the cause before the Board or before any other authority or Court. The petitioner has thought it fit to issue a lawyers notice

after 2 years from Ext.P2 dated 18.04.2007 by Ext.P4 dated 16.10.2009. That alone disentitles the petitioner from any relief.

Considering all the above circumstances, the writ petition is found to be devoid of merit and the same is dismissed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

SB

// true copy //

P.A to Judge.