

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 5/11/2015

C O R AM

THE HONOURABLE Mr.JUSTICE T.SIVAGNANAM

W.P.No.10198 of 2014

a n d

M.P.No.1 of 2014

E. Elumalai

...Petitioner

Vs

1. The Secretary to Government
Housing and Urban
Development Department
Fort St. George
Chennai 09.

2. The Managing Director
Tamil Nadu Housing Board
Nandanam
Chennai 35.

3. The Secretary/work Officer
Tamil Nadu Housing Board
493 Anna Salai
Nandanam
Chennai 600 002.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to direct the respondents to call for the records in connection with the impugned order passed by the second respondent in Letter No.allt.1.3/7384/01 2001 dated 25/9/2013 and to quash the same and further direct the respondents to allot the plot under the ex-owner category to the petitioner within a reasonable time.

For petitioner ...Mr.J.S.Arunkumar

For respondents ...Mr.R.Rajeswaran
Special Government Pleader
for R.1.

Mr.B.Vivekavanam
for R.R.2 and 3.

O R D E R

With the consent of both parties, the writ petition is taken up for final disposal.

2. Heard Mr.J.S.Arunkumar for the petitioner, Mr.R.Rajeswaran, learned Special Government Pleader for the first respondent and Mr.B.Vivekavanan for the second and third respondents.

3. The petitioner, seeks for the issuance of a writ of certiorarified mandamus, to quash the order dated 25th September 2013 in and by which the respondents herein had rejected the petitioner's request for allotment of a plot under Ex-owner category in the "Nolambur neighbourhood scheme.

4. This is the fourth writ petition filed by the petitioner.

5. Firstly, the petitioner filed W.P.No.653 of 2001, to consider his representation, wherein the petitioner wanted the property under the ex-owner category. This writ petition was disposed of on 12th January 2001, directing the respondents to consider the claim of the petitioner within a period of six weeks.

6. Subsequently, the petitioner made a representation to resurvey 45 cents of land in S.No.338/1, situated at Nolambur Village. Since his request was not considered, the petitioner had filed a writ petition in W.P.No.13824 of 2003. The said writ petition was disposed of by this Court by directing the respondents to consider the application of the petitioner within four weeks.

7. Since the petitioner's representation was rejected by the first respondent/Government, the petitioner had filed another writ petition in W.P.No.6016 of 2012, requests for allotment of HIG flat in Nolambur Scheme by giving preference to the petitioner under ex-owner category. This Court, disposed of the same, by an order dated 1st August 2013, directing the respondent Housing Board to consider and dispose of the representation dated 12th September 2011 on merits and in accordance with law. Pursuant thereto, the impugned order has been passed.

8. On a bare perusal of the impugned order, it is seen that the impugned order is a non-speaking order and an outcome of non-application of mind. Though in the counter affidavit, the second respondent seeks to justify his action, by referring to the Government letters dated 12th September 2011 and 10th September 2013 and a circular of the Board dated 4th September 1983, the impugned order is in fact a one line order and therefore, it is undoubtedly a non-speaking order. The impugned order does not assign any reasons for rejection and

hence liable to be set aside. Therefore, the impugned order is liable to be quashed.

9. Accordingly, this writ petition is allowed and the impugned order is quashed and the matter is remanded to the second respondent. The second and third respondents are directed to take fresh decision in the matter, after affording opportunity of personal hearing to the petitioner and disclosing all the facts to the petitioner. The above direction shall be complied with within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mvs.

To

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3. The Secretary/work Officer
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- 1 cc to Mr.J.S. Arunkumar, Advocate Sr.60938
1 cc to Mr.B. Viveka Vanan, Advocate SR.61235
1 cc to Government pleader Sr.61446

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