IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21783 of 2015
and
M.P.Nos.1 and 2 of 2015

R.Rangabashyam ...Petitioner

-vs-

1. Chennai Metropolitan Development Authority
rep.by its Member Secretary
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

2. Chennai Metropolitan Development Authority
rep.by its Chief Executive Officer
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008 ...Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the second respondent and quash the impugned order dated 30.6.2015 under reference Letter No.FGM/3314/13 and directing the respondents to allot the shop for an extent of 300 sq.ft., in Koyambedu Food Grain complex in the category of Non George Town Traders Type I in Koyambedu Wholesale Market Complex, Koyambedu, Chennai 107 to the petitioner.

For Petitioner : Mr.M.Raja Sekhar

For Respondents : Mr.P.Tamizhmani

ORDER

This writ petition has been filed by Mr.R.Rangabashyam challenging the impugned order dated 30.6.2015 passed by the second respondent-Chief Executive Officer, Chennai Metropolitan Development

Authority, in and by which the petitioner's allotment has been cancelled, on the ground that the petitioner has not paid the installment amount on or before 21.10.2013.

2. Learned counsel for the petitioner, assailing the impugned order, submitted that the petitioner applied for allotment of shop to an extent of 300 sq.ft., in Koyambedu Food Grain Complex through his application No.200 dated 14.07.2003 in the category of Non George Town Traders Class-I by depositing 10% of the margin money of Rs.58,000/- with registration fee of Rs.1,000/-. The first respondent, pursuant to his application, allotted a shop to the petitioner at the rate of Rs.6,446/- per sq.ft., by fixing a total sale consideration of Rs.23,65,682/- on 12.7.2013, however, the exact shop number was not mentioned in the allotment order since the construction of shop was in progress at the time of allotment in June, 2014. The first respondent has also given two options with regard to the mode of payment to the allottees, namely, either to avail the financial assistance, after entering into a tripartite agreement, with Canara Bank, Park Town Branch or to make the lumpsum payment directly to the first respondent. But the grievance of the petitioner is that even though he had deposited a sum of Rs.18,88,894/- by way of various demand drafts on various occasions, when he has to pay only a marginal amount of Rs.4,76,788/-, in spite of the amount payable in second, third, fourth & fifth installments has not been mentioned in the communication dated 12.7.2013, however, the learned counsel submitted that the petitioner is now willing to clear the entire balance amount including the interest and penal interest that is to be quantified by the second respondent within one week therefrom.

3. Mr.P.Tamizhmani, learned counsel for the respondents also fairly submitted that on receipt of a copy of this order, the second respondent will quantify the applicable penal interest and that the petitioner should be directed to clear the entire balance amount within one week therefrom.

4. In the present case, considering the fact that the petitioner had paid almost a sum of Rs.18,88,894/- and has to pay only a marginal amount of Rs.4,76,788/- in addition to interest and penal interest to be quantified by the second respondent and that the order of allotment clearly shows that if the allottee prefers to make lumpsum payment directly to CMDA, the same should be paid by demand draft drawn in favour of CEO, CMDA after the payment of 10% margin money paid in favour of CEO, CMDA i.e., balance of 50% after adjusting ID already paid with interest calculated upto 3/2013 in the

first installment and the remaining amount in four installments, I am of the view that the petitioner has not committed any default, as the order of allotment dated 12.7.2013 does not speak about any specific date before which the petitioner has to make the further installments. Therefore, recording the statement of the learned counsel for the petitioner that the petitioner will clear the balance amount of Rs.4,76,788/- along with interest and penal interest that is to be quantified by the second respondent hereinafter, this writ petition is disposed of with a direction to the respondents to quantify the penal interest for the outstanding amount payable by the petitioner within ten days from the date of receipt of a copy of this order in respect of the shop already allotted to the petitioner and on such quantification, the petitioner is further directed to clear the entire outstanding amount within a period of one week therefrom and on such clearance, the respondents shall permit the petitioner to occupy the said shop. Needless to mention that if the petitioner fails to make the payment within the time stipulated in this order, the impugned order will stand revived. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

2. The Chief Executive Officer
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai 600 008

1 CC to Mr.M.Raja Sekhar, Advocate SR.No. 36961

W.P.No.21783 of 2015

GJ (CO)
PSI (25.08.2015)