

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.22742 of 2015

V.Masthan

.. 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.Tamilmani

ORDER

This writ petition has been filed by Mr.V.Masthan, S/o Ramiah 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 balance amount on or before 21.10.2013. But the case of the petitioner is

that when he was allotted a shop having an extent of 300 sq.ft., in Koyambedu Food Grain Complex based on his application No.804 dated 20.10.2003 in the category of Non George Town Traders Class-I by fixing a total sale consideration of Rs.26,64,053/- on 12.7.2013, as per the terms and conditions for payment mentioned in the order of allotment in Foodgrains market at Koyambedu, more particularly, clause (e) thereof showing that the balance 50% of the shop cost would be collected from the date of handing over the shop in 20 quarterly instalments with 15% interest per annum, the respondents cannot fix a cut-off date on their own as 21.10.2013, since till date they have not handed over physical possession of the shop. Therefore, the further grievance of the petitioner is that when the respondents have not come forward to allot the shop as per the terms and conditions mentioned in the allotment order, the petitioner cannot be considered as a defaulter. Adding further, the learned counsel submitted that even before the allotment of shop takes place, the petitioner has paid not only the total cost of the shop, but also an excess amount of Rs.1,68,113/-, in addition to the 10% margin money of Rs.65,300/- along with the registration fee of Rs.1,000/- paid by him on 20.10.2003. To that extent, the petitioner has also filed an affidavit dated 29.7.2015.

2. It is at this point of time, Mr.P.Tamilmani, learned standing counsel taking notice for the respondents submitted that the petitioner may be right in saying that he has paid the total cost of the shop, but he cannot be allowed to say that he has paid an excess amount of Rs.1,68,113/-, since only a sum of Rs.37,500/- has been paid in excess.

3. Be that as it may, when the petitioner has paid not only the total cost of the shop even before the allotment and also paid an excess amount of Rs.37,500/- even according to the respondents, the impugned order is liable to be set aside, as it does not reflect anything about the full payment or the excess payment made by the petitioner. Hence, the impugned order is set aside and the respondents are directed to allot the shop to the petitioner as and when the shop is made ready. The writ petition stands allowed. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

SS

To

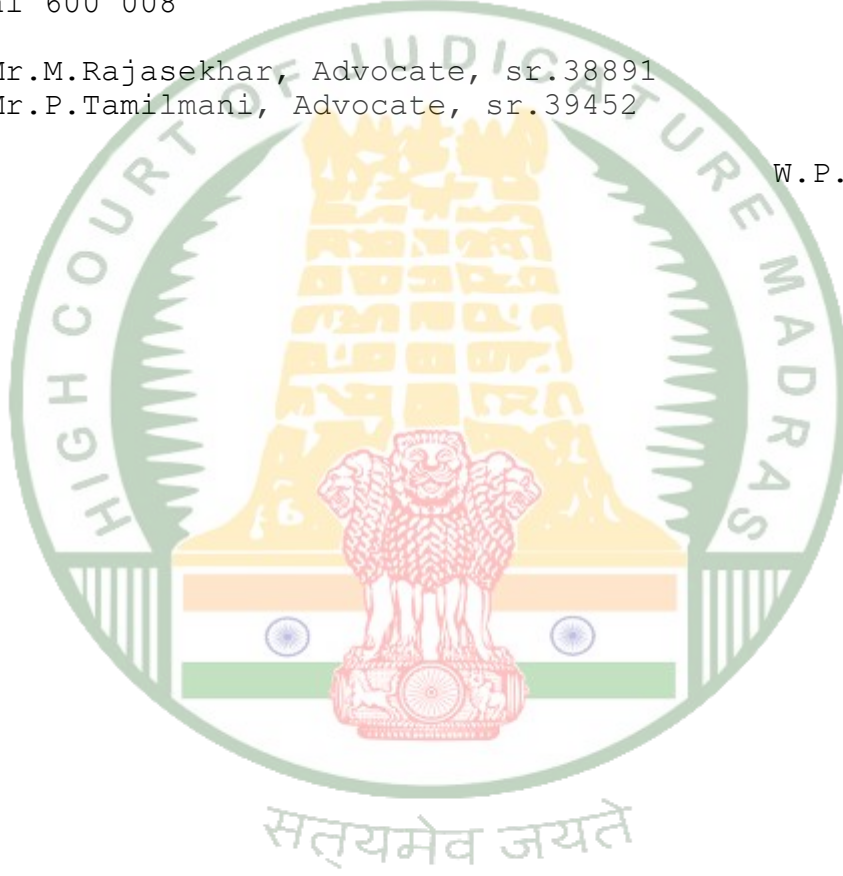
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+1 cc to Mr.M.Rajasekhar, Advocate, sr.38891
+1 cc to Mr.P.Tamilmani, Advocate, sr.39452

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