

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 22803 of 2015

&

M.P. No.1 of 2015

K. Panneer Selvam

..Petitioner

Vs.

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

..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order dated 30.06.2015 of the respondent made in Letter No. FGM/3314/13 dated 30.06.2015, to quash the same and consequently direct the respondent to restore the allotment order No. FM/3314/13 dated 12.07.2013 issued in favour of the petitioner so as to enable him to get allotment of shop which will be decided through drawal of lots amongst all allottees applied for each category of shop.

For Petitioner :: Mr.J. Ramakrishnan

For Respondent :: Mr.P. Tamilmani

सतयमेव जयते
O R D E R

This writ petition is filed challenging the order dated 30.06.2015 under reference letter No. FGM/3314/13 issued by the respondent and for a direction to the respondent to restore the allotment order No. FM/3314/13 dated 12.07.2013 issued in favour of the petitioner so as to enable him to get allotment of shop which will be decided through drawal of lots.

2. The petitioner was allotted Type-I shop in the Koyambedu Wholesale Food Grain Market Complex under NCCT category by virtue of allotment order dated 12.07.2013 for a total sale consideration of Rs. 26,64,053/-, out of which, the petitioner has already paid 50% and the balance amount has to be paid after

the possession of the shop is handed over to the petitioner. However, before possession could be handed over, the petitioner's allotment has been cancelled by the order under challenge dated 30.06.2015 stating that the entire amount had not been paid within time. Challenging the said cancellation, the present writ petition is filed.

3. Heard Mr.J. Ramakrishnan, learned counsel for the petitioner and Mr.P. Tamilmani, learned counsel for the respondent.

4. A perusal of the Terms and Conditions of Allotment of Shops in FoodGrains Market at Koyambedu, annexed to the application form, would reveal that as per clause 3(e) of Terms and Conditions for payment, "the balance 50% of the shop cost will be collected from the date of handing over the shop in 20 quarterly instalments with 15% interest per annum". As the petitioner has already paid more than 50% of the total sale consideration, before handing over the shop, namely, Rs.26,43,639/-, the balance amount is required to be paid, as per the aforesaid clause, in 20 quarterly instalments with 15% interest per annum from the date of handing over possession. When the terms and conditions clearly stipulate the mode of payment, the reason given in the impugned order for cancelling the allotment made in favour of the petitioner is unsustainable. Hence, the impugned order is set aside and the writ petition is allowed. The respondent is directed to hand over possession of the shop to be allotted to the petitioner and the petitioner shall pay the balance amount either in lumpsum or in 20 quarterly instalments as per the terms and conditions. No costs. Connected M.P. is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

nv
To

The Chief Executive Officer,
CMDA, No.1, Gandhi Irwin Road,
Egmore, Chennai 600 008.

+ 1 cc to Mr.P. Tamilmani, Advocate Sr.57074

W.P. No. 22803 of 2015

KGK(CO)
Eu 5.11.15