

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 25897 of 2015

&

M.P. No. 1 of 2015

K. Balasubramaniam

..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 lot amongst all allottees applied for each category of shop.

For Petitioner :: Mr.P.S. Kothandaraman

For Respondent :: Mr.P. Tamilmani

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 consequential 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 lot amongst all allottees applied for each category of shop

2. The petitioner was allotted a shop in Koyambedu Wholesale Food Grain Market Complex on 12.07.2013 and he had paid the entire sale consideration as fixed by the respondents.

However, by the impugned order dated 30.06.2015, the allotment made in favour of the petitioner was cancelled on the ground that the balance amount was not paid within time. Challenging the said order, the petitioner has come before this Court.

3. In similar circumstances, in W.P. No. 21169 of 2015, in respect of one Rajmohan, this Court, following the order dated 29.07.2015 passed in W.P. No. 22742 of 2015, allowed the writ petition by order dated 29.09.2015 and the relevant paragraphs are extracted hereunder:

"3. In respect of a similarly placed person, namely, V.Masthan, this Court, by its order dated 29.07.2015, in W.P. No. 22742 of 2015, set aside the cancellation order. Paragraph Nos. 2 & 3 of the above order reads as follows:

"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 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 and 2 of 2015 are closed. No costs.

4. Following the above order, the impugned order is set aside and the respondents are directed to allot shop to the petitioner within a period of 10 days from the date of receipt of a copy of this order. Accordingly, the writ petition is allowed. No costs. The connected miscellaneous petitions are closed.

4. In the light of the order dated 29.09.2015 passed by this Court in connected writ petition, namely, W.P. No. 21169 of 2015, the impugned order is set aside and the respondent is directed to allot a shop to the petitioner within a period of 10 days from the date of receipt of a copy of this order. Accordingly, the writ petition is allowed. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

nv
To

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

+ 1 cc to Mr.P. Tamil Mani, Advocate Sr.57073

W.P. No. 25897 of 2015

KGK(CO)
Eu 5.11.15



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