

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.01.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.27497 of 2014 &
M.P.Nos.1 & 2 of 2014

V.Tirumaran

.. Petitioner

Vs.

1.The Government of Tamil Nadu
rep. By its Secretary to Government
Housing and Urban Development Department
Fort St.George, Chennai 9.

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

3.The Assistant Revenue Officer
Vellore Housing Unit
Sathuvacheri, Vellore 632 009.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining order bearing No.A51/10126/95 dated 25.7.2014 of the third respondent and quash the same and consequently direct the respondent herein to receive monthly instalments towards the cost of LIG House No.989, TNHB Phase II, Tirupathur, Vellore District and issue Sale Deed in petitioner favour after receiving the last instalment as full and final settlement.

For Petitioner : Mr.T.R.Rajgajenthn

For Respondents : Mr.R.Vijayakumar -R1
Addl.Govt. Pleader

Mr.V.Anandhamurthy
Standing Counsel -R2 & R3

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.T.R.Rajgajenthn, learned counsel appearing for the petitioner, Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the first respondent and Mr.V.Anandhamurthy, learned Standing Counsel appearing for R2 & R3 and perused the materials placed on record, including the written instructions given by the Executive Engineer cum Administrative Officer, Vellore Housing Unit dated 13.4.2014, which encloses the parawise comments for the grievances raised by the writ petitioner.

3. It is not in dispute that the petitioner was an allottee of LIG Type house at Vellore Housing Unit, Vellore, by letter of allotment dated 13.11.1995 and the tentative cost was Rs.1,05,400/-. The petitioner was required to pay the cost of flat in monthly instalments. Apart from that, the petitioner was required to pay interest as well as monthly maintenance. It appears that the petitioner was paying instalments upto 2005 and thereafter, the petitioner defaulted in payment. In such circumstances, the respondent Corporation, having left with no option, initiated proceedings for effecting cancellation of allotment. This culminated in issue of show cause notice dated 25.7.2014.

4. At the time, when the writ petition was entertained, interim stay was granted and the petitioner was directed to pay Rs.5,000/- every month towards the cost of the flat and the petitioner was directed to file an affidavit of undertaking to that effect before this Court and he is continuing to pay the cost at the rate of Rs.5,000/- per month.

5. If the amount as directed by this Court is being paid by the petitioner continuously, then the entire cost of the flat would be recovered in about three years. In the given circumstances, this Court is of the view that the respondents are not justified in initiating action. Further, considering the economic status of the petitioner and the difficulties pleaded and taking note of his conduct pursuant to the interim order granted by this Court on 20.10.2014, this Court is of the view that the petitioner should be permitted to pay the cost of the flat at the rate of Rs.5,000/- per month and wipe off the other dues payable to the respondent Board. However, in case of default for two consecutive payments, the respondents will be entitled to initiate action against the petitioner for cancellation of allotment and the benefit of this order shall not enure to the petitioner. It is made clear that this order has been passed in the peculiar facts and circumstances of the case and should ***not be treated** as a precedent.

The Writ Petition is disposed of with the above observation. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(J)
21.1.2015

*Para 5 corrected as per order
of this Court dated 20.2.2015 in
W.P.27497/2014.

Sd/-
Assistant Registrar(co)
24.2.2015

//True Copy//

Sub Assistant Registrar

rpa

To

1.The Secretary to Government, Government of Tamil Nadu
Housing and Urban Development Department
Fort St.George, Chennai 9.

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

3.The Assistant Revenue Officer
Vellore Housing Unit
Sathuvacheri, Vellore 632 009.

+1cc to Mr.T.R.Rajagajentharn, Advocate 159
+1cc to Mr.V.Anandhamurthy, Advocate SR 184

to be substituted to
the order already
despatched on 10.2.15

GJ(CO)
km/22.1.

pmk.24.2.2015

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