

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.28747 of 2015
and M.P.No.1 of 2015

S.Gunasekaran

...Petitioner

Vs.

1.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai - 600 008.

2.The Chief Planning Officer,
Maraimalai Nagar, Pudhu Nagar Scheme,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai - 600 008.

3.The Chief Project Officer,
Area Planning Department,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai - 600 008.

...Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India for issue of writ of certiorarified mandamus calling for the records relating to the letter dated 14.07.2015 bearing No.AL4/2859/2015 issued by the 3rd respondent to the petitioner and quash the same and consequently direct the respondents to allot to the petitioner the vacant area measuring about 800 sq.ft. lying adjacent and on the Eastern side of LIG house number B-54, M.M. Nagar Housing Scheme (Kambar Street, NH2) in Survey No.355 part of Ninnakkarai Village, Chengalpet Talu, Kancheepuram District.

For Petitioner : Mr.S.Anil Sandeep
For Respondents: Mr.K.Raja Srinivas

O R D E R

The petitioner has been allotted 684 sq.ft. comprised in Survey No.355 bearing LIG House No.B54, M.M Nagar House Scheme by the Tamilnadu Housing Board through allotment dated 05.06.2002. A vacant land is lying near the petitioner's plot measuring about 800

sq.ft. and the said land is unutilised. Therefore, the petitioner made a representation on 22.06.2015 addressed to the first respondent pointing out that similarly placed person has been allotted the vacant site similar to the vacant side lying near the petitioner's house. The said representation was rejected by the third respondent by letter dated 14.07.2015. The said order is being challenged by the petitioner before this court.

2. Mr.S.Anil Sandeep, learned counsel appearing for the petitioner would submit that the site is not utilised at present and it is not going to be utilised and it is unnecessarily lying vacant. He would also point out a similar to his case, M/s.Sakthi Electro Platers have been allotted the excess land lying adjacent to the said allottee's land. When similarly placed person had been allotted the excess land adjacent to his site which was utilised, the respondent should have allotted the excess land to the petitioner also and therefore he would submit that the respondent has discriminated with the petitioner.

3. Mr.Raja Srinivas, learned counsel appearing for the respondents would submit that the policy as on date has been changed and all the public properties, especially housing board properties are allotted only by way of drawing lot and not by way of application. Therefore, he seeks to dismiss the petition.

4. Heard the parties and perused the records.

5. It is seen that on 05.06.2002, the petitioner was allotted a plot measuring about 684 sq.ft. and he has made construction and living there. A vacant site measuring about 800 sq.ft., adjacent to the petitioner's property is lying unutilised which compelled the petitioner to approach the respondent for allotment of same to him.

6. As rightly pointed out by the learned counsel for the respondent, the allotment is made as per the policy of the Housing Board . As on date, the policy of CMDA is to allot the properties only by way of lot and the properties are not allotted based on individual applicable which may lead to avenue for corrupt practices. Therefore, the respondent rightly rejected the petitioner's application for allotment of excess land and hence the order cannot be found fault with.

7. The petitioner should have been satisfied with the land which has been allotted to him and he should not have applied for the excess land which is lying behind his property which is more than his allotted land. If persons who are already beneficiaries of the Housing Board tries to get more benefits, what will happen to the common man who is not having any house? The application filed by the petitioner is tainted with greed and is against the public interest. Moreover, the petitioner has got no right to maintain mandamus as he

has got no statutory right to ask for allotment of vacant site in his favour, even on technical grounds. Hence, the petition is liable to be dismissed.

8. At this juncture, the learned counsel for the petitioner contends that in case if CMDA seeks application for allotment of any excess land, this order should not be a bar for the petitioner to maintain the said application. It is made clear that while receiving applications, CMDA should verify whether the persons who are already allotted plots under the scheme should not be given any further allotment. Not only the petitioner, but any other person who have been allotted under the scheme should not apply for fresh allotment. The application for allotment of plots should bear a column stating that whether the applicant has been benefited already under such scheme or not. If he or his family members have been allotted under the scheme, the application should be rejected at threshold itself.

9. In the result, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Mr.K. Rajasrinivas, Advocate, S.R.No.50109
+1cc to Mr.S. Anil Sandeep, Advocate, S.R.No.49959

AK(CO)
EU(05/10/2015)

W.P. No.28747 of 2015