

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2015

CORAM

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.30345 of 2015  
and M.P.Nos.1 & 2 of 2015

T.Bhaskaran

... Petitioner

-Vs-

1.Tamil Nadu Housing Board,  
rep by its Managing Director,  
Chennai - 9.

2.The Executive Engineer,  
Kajamalai Colony,  
Tamil Nadu Housing Board,  
Trichy Division, Trichy - 620 020.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari calling for the records of the 2<sup>nd</sup> respondent relating to the Public Notification Vide CHAE.MA.TH.O.E/1102/ VARAIKALAI/2015 published in the Dina Malar News Paper dated 30.08.2015 inviting Sealed Tenders from the public for the Auction Sale of an extent of 4250 Sq. Feet of open space in Sl.No.10, TR No.159 shown as "Public Purpose" in the Approved Lay-out Plan, Kurumban Chavadi Rural Development Plan, Phase-I, Ariyalur Division within the jurisdiction of Eruthukkaran Patti, Panchayat Board and quash the same.

For Petitioner : Mr.S.Kadarkarai  
For Respondents : Mr.V.Anandamoorthy

O R D E R

The petitioner, being one of the allottee, has challenged the impugned notification, calling for sealed tender with respect to Sl.No.10, TR No.159 shown as "Public Purpose" in the approved lay out plan, on the ground that it has been sold contrary to the said purpose as mentioned in the lay out plan.

2.The learned counsel for the petitioner submitted that once it is ear marked in the lay out plan, the same cannot be sold for any other purpose.

3.The learned counsel appearing for the Housing Board, basing reliance on Government Order in G.O.Ms.No.263, Housing and Urban Development (HB5) Department, dated 22.10.2003, submitted that the plot is sale-able, though for a public purpose. The learned counsel submitted that there is no compromise on the public purpose. The sale effected would be used for the public purpose as mentioned in the lay out plan.

4.On a perusal of the Government Order in G.O.Ms.No.263, Housing and Urban Development (HB5) Department, dated 22.10.2003 with reference to the public purpose site, it is very clear that such sites can be sold provided, the public purpose mentioned thereunder will have to be satisfied. Clause - 4 of the said Government Order is extracted hereunder:

"4.PUBLIC PURPOSE SITES: In G.O.Ms.No.23, Housing and Urban Development Department, dated 13.01.1997 the public purpose sites are being allotted for construction of orphanage houses, working women's hostel, private nursing home, temple, church, mosque, recreation center, Medical Center, Hospital and Residential Association of the Tamil Nadu Housing Board Scheme etc. The Government order stipulates that the limited tender-cum-auction system may be resorted to and the upset price rate may be fixed at 1.75 times the ruling residential rate per ground in the year of allotment under each area in Chennai city and that 1.2 times the ruling residential rates in Mofussil area and the site to be allotted to the highest bidder in the tender-cum-auction subject to allotment condition. The Earnest Money Deposit under the Tender-cum-auction system be fixed at Rs.5,000/-."

5.There is a difference between a public site owned and used by an authority under Article 12 of the Constitution of India and a public site, which can be sold and only be used for the above said public purpose. The site, which is the subject matter of this Writ Petition, comes under the second category. Therefore, the basis upon which the Writ Petition is filed is not factually correct.

6.Accordingly, the Writ Petition stands disposed of making it clear that after the sale, any successful tenderer/allottee will have to use the site purchased only for a public purpose mentioned in Clause - 4 of the Government Order referred above. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To

1.The Managing Director,  
Tamil Nadu Housing Board,  
Chennai - 9.

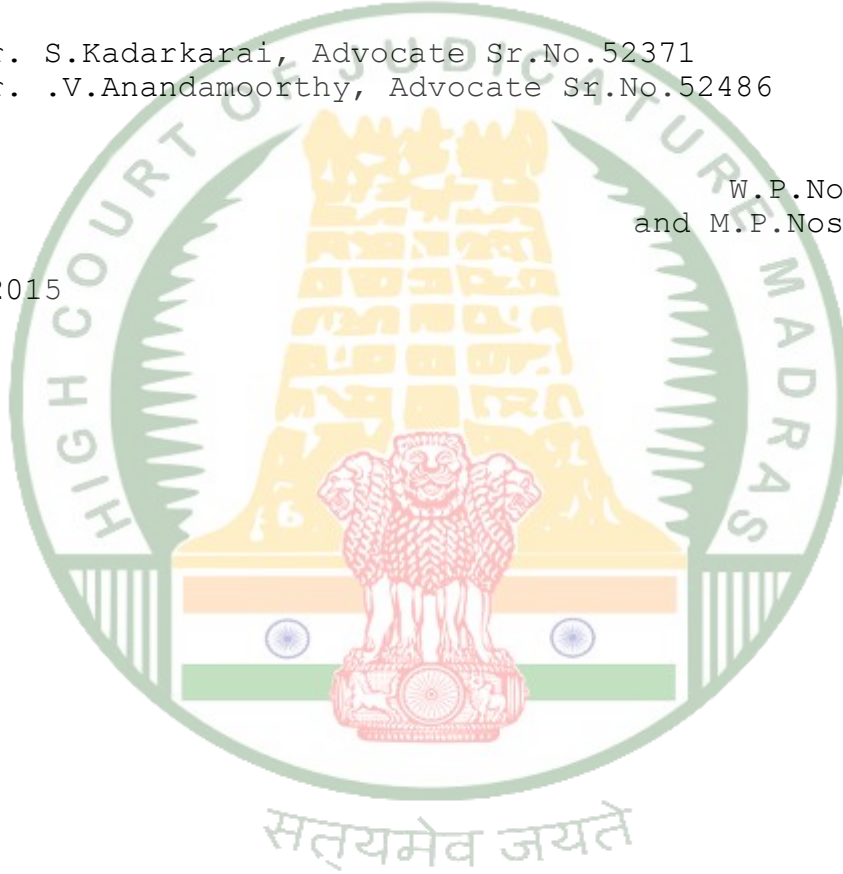
2.The Executive Engineer,  
Kajamalai Colony,  
Tamil Nadu Housing Board,  
Trichy Division,  
Trichy - 620 020.

1 cc to Mr. S.Kadarkarai, Advocate Sr.No.52371

1 cc to Mr. .V.Anandamoorthy, Advocate Sr.No.52486

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