

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

Writ Petition No.31548 of 2015

S.Albert

.. Petitioner

vs.

1.The Member Secretary,  
Chennai Metropolitan Development Authority,  
1, Gandhi Irwin Road,  
Egmore,  
Chennai - 600 008.

2.The Chief Executive Officer,  
Chennai Metropolitan Development Authority,  
1, Gandhi Irwin Road,  
Egmore,  
Chennai - 600 008.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Lr.No.FGM/3314/13 dated 30.06.2015 passed by the second respondent and quash the same and consequently direct the respondents to permit the petitioner to participate in the drawl of lot to be held and to hand over the possession of the shop to be allotted in Koyambedu Wholesale Market Complex, Chennai - 107.

For Petitioner : Mr.N.Manokaran

For RR1 & 2 : Mr.K.Raja Srinivas

WEB COPY  
ORDER

Challenging the cancellation of allotment of shop in the Koyambedu Wholesale Market Complex, Chennai - 107, the petitioner is before this Court with this writ petition.

2.As per application No.434, the petitioner was allotted a shop and he was asked to pay 10% margin money on or before 30.11.2013. Thereafter, the respondents extended the time for payment of the said amount with interest @ 14.5% per annum till 24.12.2013. Accordingly, the petitioner paid Rs.3,12,152/- towards 10% of the margin money on 26.12.2013. However, the impugned order has been passed on 30.06.2015 by the second respondent for non payment of margin money by the petitioner. The said order is being challenged before this Court in this writ petition.

3.Heard Mr.N.Manokaran, learned counsel for the petitioner and Mr.K.Raja Srinivas, learned counsel for the respondents.

4.It is evident from the records that the petitioner paid Rs.3,12,152/- towards 10% of the margin money on 26.12.2013. Only the interest amount of Rs.54,000/- has been paid by the petitioner on 30.12.2013. So, as on 30.12.2013, the petitioner has paid 10% of the margin money with interest @ 14.5% per annum.

5.A perusal of the record would show that the petitioner paid 10% of the margin money within the stipulated time i.e., on 26.12.2013 and only the interest @ 14.5% per annum i.e., Rs.54,000/- was paid by the petitioner belatedly on 30.12.2013, that too mere expiry of four days.

6.As substantial compliance has been made by the petitioner by depositing Rs.3,12,152/- within the stipulated period and only Rs.54,000/- towards interest has been paid belatedly, the second respondent cannot cancel the allotment made in favour of the petitioner. That apart, when the Bank has already sanctioned a loan of Rs.78,66,000/- towards the balance value of the shop to the petitioner, it is not fair on the part of the second respondent to cancel the allotment made in favour of the petitioner.

7.At this stage, if the allotment is cancelled by the respondents for the non payment of interest amount by the petitioner within the stipulated time, definitely injustice would be caused to the petitioner. Further, the petitioner has made substantial compliance and there is no intention on the part of the petitioner for non compliance of the order of the respondents. Hence, the impugned order is liable to be quashed.

8.More over, in similar matter, this Court in W.P.No.21783 of 2015, by order dated 21.07.2015, set aside the impugned order. Further, this Court also takes into consideration the submission made by Mr.K.Raja Srinivas, learned counsel appearing for the respondents 1 and 2 that 47 shops have not been allotted

to any person and the petitioner would be allotted a shop after drawing lot. The said submission is recorded.

9.In the result, the writ petition is allowed and the impugned order dated 30.06.2015 is quashed and the respondents are directed to allot a shop to the petitioner in the next drawal of lot. No costs.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

jbm

To

1.The Member Secretary,  
Chennai Metropolitan Development Authority,  
1, Gandhi Irwin Road,  
Egmore,  
Chennai - 600 008.

2.The Chief Executive Officer,  
Chennai Metropolitan Development Authority,  
1, Gandhi Irwin Road,  
Egmore,  
Chennai - 600 008.

+1 cc to Mr.N.Manoharan Advocate sr.55431

+1 cc to Mr.K.Raja Shrinivas Advocate sr.55328

W.P.No.31548 of 2015

aa17/11/2015

WEB COPY