



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.03.2015

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.8633 of 2011

A.Balakrishnan

... Petitioner

Vs.

1.The Executive Engineer,
Tamil Nadu Housing Board,
Thanjavur.

2.The Managing Director,
Tamil Nadu Housing Board,
Chennai-600 035.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to letter dated 27.05.2011 issued by the first respondent and to quash the same as unlawful and arbitrary and to direct the first respondent to re-fix the value of the plot allotted to the petitioner vide GO (2D) 94 dated 03.05.2005 in accordance with the value prevailed as on 03.05.2005.

For petitioner : Mr.P.Sesubalan Raja

For respondents : Mr.K.Balasubramani
Government Advocate

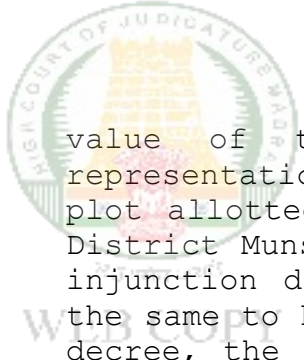
ORDER

The petitioner has filed the present Writ Petition praying to call for the records pertaining to letter dated 27.05.2011 issued by the first respondent and to quash the same as unlawful and arbitrary and to direct the first respondent to re-fix the value of the plot allotted to the petitioner vide GO (2D) 94 dated 03.05.2005 in accordance with the value prevailed as on 03.05.2005.

2. The petitioner is an Ex-serviceman. After his retirement from Military service on 30.11.1983, he was doing Social services for over 18 years. He made a representation on 21.06.2004 to the State Government of Tamil Nadu to allot a plot for constructing a shop in the Housing Unit Quarters at Tamil University, Thanjavur under the category of "Social Service Worker". By G.O.(2D) 94 dated 03.05.2005, the first respondent accepted the petitioner's request and allotted plot No.1 at Tamil University Housing Unit, Thanjavur. The second respondent was directed to issue necessary directions to effect the allotment.

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3.The first respondent by the communication dated 09.06.2005 informed the petitioner that the order could be given effect only after fixing the



value of the plot allotted to him. In spite of his repeated representations to the respondents, they failed to fix the value of the plot allotted to him. The petitioner filed O.S.No.408 of 2010 before the District Munsif Court, Thanjavur against the respondents seeking Mandatory injunction directing them to fix the value of the plot and to hand over the same to him. The suit was decreed ex-parte on 20.04.2011. As per the decree, the respondents were directed to fix the value of the plot within one month from the date of decree and directed the petitioner to pay the amount so fixed within one month from the date of such fixation.

4. The first respondent informed the petitioner by the impugned letter dated 27.05.2011, which was received by the petitioner on 31.05.2011 that value of the plot was fixed at Rs.24,64,000/- and the petitioner was informed about the same by the communication dated 31.03.2011. As the petitioner did not pay the amounts within the time limit, he has to pay a sum of Rs.27,23,000/- which includes 10.5% additional sum as per the Departmental Rules within 21 days from the date of receipt of the order.

5. The petitioner states that he did not receive the communication dated 31.03.2011. Therefore, he is not entitled to pay additional sum of 10.5%. The respondents ought to have fixed the value as on 03.05.2005. Therefore, the petitioner is praying to quash the impugned order and seeking a direction to the respondent to re-fix the value of the plot allotted to him vide G.O(2D) 94 dated 03.05.2005 in accordance with value prevailed as on 03.05.2005.

6. Though the writ petition is of the year 2011, the respondents have not filed any counter. The counsel for the respondents produced earlier order of this Court, dated 13.07.2011 made in W.P.(MD)No.7753 of 2011. Admittedly, the plot in question was allotted to the petitioner by the Government in the category of Social Worker. The Government gave directions to the officials of Tamil Nadu Housing Board to fix the value of the plot, receive advance and then hand over the plot to the petitioner. The officials are also directed to comply with the Rules and Regulations.

7. From the impugned order, it is seen that the value of all the plots in Tamil Nadu Housing Unit was fixed by Tamil Nadu Housing Board, Thanjavur only on 24.12.2010. In the said order Rs.435/- per sq.ft., was fixed for the year 2010-2011. Based on the order, dated 24.12.2010 only the petitioner was called upon to pay a sum of Rs.24,64,000/- for the shop No.1 measuring 5148 sq.ft., The first respondent also informed that as the financial year 2011-2012 has started, the petitioner is liable to pay additional sum of 10.5% totalling a sum of Rs.27,23,000/- as per the Rules and Regulations of the Tamil Nadu Housing Board.

8. Therefore, the contention of the petitioner that he was asked to pay 10.5% additional sum because of his failure to pay the amounts fixed by the Tamil Nadu Housing Board within the time fixed is not correct. The shop No.1 was allotted to the petitioner on 03.05.2005 it was made clear in the G.O.alloting the plot to the petitioner that only after fixing the value of the land and receiving the advance from the petitioner, the plot be handed over to him. Eventhough the petitioner alleges that he had made many representations to fix the value of the plot, the



respondents did not fix the value of the land, he was not produced any documents to show that he made representations for fixation of valuation of land.

9. On the other hand, from the pleadings it is seen that only in the year 2010, he has filed O.S.No.408/2010 on the file of District Munsif Court, Thanjavur for a direction to the respondents to fix the value of the land. The petitioner was not diligent enough to agitate his right at the earliest. Further it is not the case of the petitioner that the respondents fixed the value for other plots in the Unit and did not fix the value for his plot alone.

10. On the other hand, the respondents have come out with the specific case as seen in the impugned order that the Tamil Nadu Housing Board fixed the value of plots in the unit only in the year 2010. Further the petitioner has already filed W.P(MD)No.7753 of 2011 before this Court for a direction to the respondents to consider the representation dated 20.06.2011 to re-fix the plot of value by G.O.(2D) 94 dated 03.05.2005. This Court by the order dated 13.07.2011 permitted the petitioner to withdraw the writ petition without leave to file another writ petition with reference to the prayer for reconsideration of the representation. The representation dated 20.06.2011 is only for re-fixation of value of plot. The petitioner withdrew the earlier writ petition, but this Court did not grant permission to file a another writ petition for the very same relief. The petitioner is claiming the very same relief in a different form as though he is challenging the impugned order. The said order was available when he filed the earlier writ petition and cause of action to challenge the impugned order had accrued to the petitioner at that time itself. Having failed to challenge the impugned order in the earlier writ petition itself and in view of the order of this Court dated 13.07.2011 made in W.P.(MD)No.7753 of 2011, this writ petition is liable to be dismissed. In the result, the writ petition is dismissed. No costs.

Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To:

1.The Executive Engineer,
Tamil Nadu Housing Board,
Thanjavur.

2.The Managing Director,
Tamil Nadu Housing Board,
Chennai-600 035.

+1cc to M/S. P.Sesubalan Raja, Advocate in SR.No. 14081

TS/16.04.2015/2P-4C

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