

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.03.2016

PRONOUNCED ON : 12.04.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.6175 of 2013

and

M.P.No.1 of 2013

C.Chandrasekhar ... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Housing Board,
331, Mount Road,
Nandanam, Madras-35.

2. The Executive Engineer
and Administrative Officer,
Tamil Nadu Housing Board, Erode,
Housing Unit, Erode. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the proceedings in Ka.No.R9/4623-A/91, dated 30.01.2013 on the file of the 2nd respondent, and to quash the same as illegal, incompetent and without jurisdiction and to further direct the respondent to allot housing plots in accordance with the directions of the Division Bench of this Court in W.A.Nos.1317 to 1320 of 2000, dated 12.06.2007.

For Petitioner : Mr.V.Raghavachari

For respondents : Mr.V.Andndhamurthy (For R1 & R2)

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings in Ka.No.R9/4623-A/91, dated 30.01.2013 on the file of the 2nd respondent, and to quash the same as illegal, incompetent and without jurisdiction, and

further to direct the respondents to allot housing plots in accordance with the directions of the Division Bench of this Court in W.A.Nos.1317 to 1320 of 2000, dated 12.06.2007.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner, inter alia, as follows:-

2.1.The petitioner is the legal heir of late Chellappa Gounder, who was a land owner in Erode. The petitioner's father along with other persons owned large extent of land in Erode District. The subject land, along with larger extents of land in Erode, were the subject matter of land acquisition proceedings initiated under the Land Acquisition Act for the purpose of a Housing Board Scheme. The respondents / Housing Board had also assured land owners that suitable alternate plots would be allotted to them on a priority basis for residential purposes. The acquired land is now known as Sampath Nagar in Erode. Since the plots were not allotted as assured by the respondents, a few land owners approached this Court and obtained orders for allotment on a priority basis.

2-2.The persons similarly placed, like the petitioner's father, who did not benefit from the order, moved this Court to consider their request for allotment. However, the respondents were of the view that their request for allotment of residential plots could not be made, as there were no residential plots available and that the available commercial plots could not be allotted privately, as the same has to be allotted only in an open auction. The petitioner's father and others filed W.P.Nos.19151 & 19951 of 1992 and this Court by order dated 25.04.2000 quashed the order of the respondents and directed the respondents to allot residential or commercial plot in Sampath Nagar Phase I/II Scheme. The respondents-Housing Board had challenged the said order dated 25.04.2000, by filing writ appeals in W.A.Nos.1317 to 1320 of 2000. The Division Bench of this Court by order dated 12.06.2007 dismissed the said writ appeals. Further, while dismissing the writ appeals, the Division Bench of this Court directed the respondents herein-Housing Board to allot the commercial plot in Sampath Nagar to each of the petitioners therein, within a period of 30 days from the date of receipt of the order. In para 3 of the order dated 12.06.2007 in the said Writ Appeal, the Division Bench has held as follows:-

"As far as the payment of price for the plot to be allotted is concerned, since even at the earliest stage when the acquisition proceedings were commenced, the land owners were informed that they must pay the prevailing price and since much water has flown under the bridge from then onwards and the fact that the learned

single judge allowed the writ petitions on 25.04.2000, 19.06.2000 and 30.06.2000, we are of the considered opinion that the ends of justice would be met if the Housing Board is directed to fix the price at which the Housing Board had allotted commercial plots to other people in Sampath Nagar Phase I or Phase II Scheme, as the case may be during the period from January 2000 to June 2000.".

2-3.As against the order of the Division Bench, the respondents herein/Housing Board preferred a Special Leave Petition in SLP (c).No.23922, 23940, 23941 and 23945 of 2007 and the same were dismissed on 21.02.2012 by the Hon'ble Supreme Court, confirming the order of the Division Bench of this Court in W.A.No.1317 to 1320 of 2000.

2-4.After the order passed by the Honourable Supreme Court, the petitioner is under the expectation that the respondents / Housing Board would finally honor its two decade commitment and allot plots in accordance with the order of the Division Bench of this Court. But, to his shock and surprise, the petitioner received a letter from the 2nd respondent, dated 30.01.2013, informing that the allotment of plots could be made in his favour on condition that the petitioner should pay a sum of Rs.71,12,000/- for a total area of Rs.4811.50 sq.ft, amounting to appropriately Rs.1,450 per sq.ft. In fact, the Division Bench of this Court in its order had categorically given direction to the respondents that the rates prevailing during the period January-June 2000 should be taken to be the price for the plot. On an information obtained by the petitioner under Right to Information Act, he came to know that the prices of land in Scheme I and II during that period varied from Rs.39/- to Rs.43/- per sq.ft. Moreover, the respondents have chosen not to give any reason for the arbitrary value of Rs.1,450/- per sq.ft as laid down by them in the impugned letter. Hence, the petitioner has come forward with the present writ petition.

3.But, the respondents have filed a counter, contending that the price of the plot was only fixed by considering the cost of the commercial plots for the year 2000-2001. Huge amount has been invested in the Schemes and on getting funds from various sources for interest and the amount of interest has to be collected only from the allottees. Since the cost of the scheme has already been finalized, there is no other alternative except to levy the interest on the present writ petitioner. Further, the market value of the scheme land also increased on par with other lands and especially due to the location within the developed scheme area. Therefore, the value fixed cannot

be considered high or without any calculations on the cost of the scheme. It is further stated by the respondents in the counter that similar allottees namely Manokaran and Baskaran, were allotted Plot No.46 during the relevant period under ex-land owner category and they have accepted the allotment and have remitted a sum of Rs.71,87,000/- towards the cost of the above said plot of 4,854.56 sq.ft, which works out to Rs.1,478/- per sq.ft. Thus, the respondents sought for dismissal of the writ petition.

4.Heard both sides and perused the materials available on record.

5.From a perusal of the materials available on record, I find that in the judgment dated 12.06.2007 in W.A.Nos.1317 to 1320 of 2000, there is a specific direction by the Division Bench of this Court to the Housing Board to fix the price at which the Housing Board had allotted commercial plots to other people in Sampath Nagar Phase I or Phase II Scheme, as the case may be during the period from January 2000 to June 2000. The SLP filed by the respondents-Housing Board against the said order of the Division Bench was also dismissed. Thus, the order passed by the Division Bench was confirmed. Further, I find that the respondents had assured the land owners that suitable alternate plots would be allotted to them on a priority basis for residential purposes. But, subsequently, they failed to allot residential plots, that is the reason why the petitioner was forced to approach the Court. Therefore, the petitioner cannot be blamed for the delay. When there is a specific direction by the Division Bench of this Court to the Housing Board to fix the price at which the Housing Board had allotted commercial plots during the period from January 2000 to June 2000, which direction was also confirmed by the Honourable Supreme Court, now by in total violation to the said order, the respondents cannot fix the price arbitrarily for the plot. Therefore, I am of the opinion that the writ petition deserved to be allowed as prayed for.

For the foregoing reasons, the writ petition is allowed as prayed for. The impugned order dated 30.1.2013 is quashed and the respondents are directed to allot the plots in accordance with the directions of the Division Bench of this Court in W.A.Nos.1317 to 1320 of 2000, dated 12.06.2007. Consequently, connected Miscellaneous Petition is closed. No costs.
ssv

Sd
Assistant Registrar CS-II

True copy

Sub Assistant Registrar.

To

1. The Chairman,
Tamil Nadu Housing Board,
331, Mount Road,
Nandanam, Madras-35.
2. The Executive Engineer
and Administrative Officer,
Tamil Nadu Housing Board, Erode,
Housing Unit, Erode.

+ 1 cc to Mr.V.Raghavachari, Advocate SR 22666

+ 1 cc to Mr.V.Anandhamurthy, Advocate SR 23039

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