

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.2067 of 2013

R.Amudha

... Petitioner

Vs.

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George,
Chennai 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai,
Chennai 600 035.
3. The Executive Engineer cum
Administrative Officer,
Salem Housing Unit,
Iyan Thirumaligai Road,
TNHB, Salem -8,
Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records in Letter No.R4/1644/10, dated 31.07.2012 passed by the 3rd respondent and quash the same consequently direct the respondents to fix the market value of the commerical plot prevailing at the time of passing allotment order viz., dated 08.11.2010 for the Plot No.C-9, Alagapuram Scheme-2, Salem Unit.

For Petitioner : Mr.M.Elango

For R1 : Mr.R.A.S.Senthilvel,
Addl. Govt. Pleader

For R2 & R3 : Mr.V.Anandhamoorthy

O R D E R

The petitioner herein was allotted a plot under the 'Social Worker' category. Though, he has paid a sum of Rs.10 lakhs, the order impugned has been passed by fixing the market value of the property at Rs.7,000/- per sq. ft., as in the year 2012-13. Challenging the same, the present Writ Petition has been filed.

2. Considering the very same Scheme under the very same category, this Court passed an order in W.P.No.23838 of 2012, dated 27.08.2015, in the following manner:

"6. This Court finds force in the submissions made by the learned counsel appearing for the petitioner that being an allottee of the plot under the discretionary quota, the petitioner cannot be put in a worse situation than the person, who purchased the plot through auction sale for commercial purpose. The petitioner never had a chance to make a comparative assessment of the price fixed by the respondent with the price fixed to the purchaser of the plots in the auction. Normally, for commercial plots, the price will be higher as against the discretionary quota.

7. The learned Senior counsel for the petitioner fairly submitted that the petitioner is willing to go by the letter dated 03.02.2011 and ready to pay the sale consideration by taking into consideration of Rs.5149/- per square feet, which has been fixed, as the highest sale price for the commercial plot.

8. This Court is of the considered view that the fixation of price for the plot of the petitioner as shown in the impugned order cannot be sustained. The allotment is an offer and it has been accepted by the petitioner by paying initial advance amount, voluntarily. What is required to be done thereafter is to fix the final cost existing at that time. For that purpose, a subsequent valuation be it a auction sale price, guideline value or ruling rate can never be taken into consideration. Not even the rationale indicated in the letter dated 03.02.2011 has been followed.

9. Though the petitioner has sought for fixation of Rs.4650/- for square feet, as fixed in respect of Plot No.C-6, the price fixed for Plot No. C-6 and C-7 cannot be compared taking into account the locational advantages for each of the plot. Moreover, the amount of Rs.7,000/- per sq.ft fixed for the plot of the Petitioner is excluding other incidental charges which the petitioner is liable to pay.

10. Be that as it may, the petitioner is willing to go by the letter dated 03.02.2011. By doing so, the petitioner is liable to pay a sum of Rs.5149/- per square feet as against Rs.7000/- per square feet fixed by the respondent. Even otherwise, the fixation of Rs.7000/-per sq.ft. has got no rationale. Unilaterally, the respondent cannot fix the value at Rs.7000/- per square feet by taking into consideration the highest value fetched for the commercial plots, especially, when it is not the same price likely to be fixed even in the open auction. On this ground alone, the impugned order cannot be sustained. Hence, the writ petition stands allowed to the extent as indicated above by setting aside the impugned order. Consequently, the respondent is directed to fix the value of Plot No.C-7 allotted to the petitioner at Rs.5149/- per square feet in Alagapuram Scheme, Salem. The respondent is directed to intimate the amount payable by the petitioner within a period of four weeks from the date of receipt of a copy of this order. The petitioner shall make the payment within a period of eight weeks thereafter. After such compliance, the respondent shall complete the formalities required and to execute the sale deed in favour of the petitioner. No costs. Consequently, connected Miscellaneous Petitions are closed."

3. In view of the same, the order impugned in this Writ Petition is set aside and the direction issued in the decision referred to supra is made applicable to the case of the petitioner herein.

This Writ Petition is ordered accordingly. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To :

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TNHB, Salem -8,
Salem District.

+1cc to Mr.V.Anandhamoorthy, Advocate, S.R.No.1939

+1cc to Mr.M.Elango, Advocate, S.R.No.2151

W.P.No.2067 of 2013

KK(CO)
CA(27/01/2016)

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