



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Tenth day of June Two Thousand Sixteen

PRESENT

The Hon`ble The CHIEF JUSTICE
and

The Hon`ble Mr.Justice NOOTY. RAMAMOHANA RAO

CMP(MD) Nos.5239 and 5240 of 2016

IN

WA(MD) Nos.SR27777 and 27778 of 2014

1 STATE OF TAMIL NADU,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
HOUSING UNIT AND URBAN DEVELOPMENT
DEPARTMENT, FORT ST. GEORGE, CHENNAI-600 009.

2 THE CHAIRMAN AND MANAGING DIRECTOR,
TAMIL NADU HOUSING BOARD, NANDANAM,
CHENNAI-600 009.

3 THE EXECUTIVE ENGINEER,
AND ADMINISTRATION OFFICER, TAMIL NADU HOUSING BOARD,
TIRUNELVELI HOUSING UNIT,
SIVANTHIPATTY ROAD, TIRUNELVELI-627 011.

... PETITIONERS/APELLANTS
IN BOTH THE PETITIONS

Vs

B.VELUMAYIL,

... RESPONDENT/RESPONDENT
CMP(MD) No.5239 of 2016 IN
WA(MD) No.SR27777 of 2014

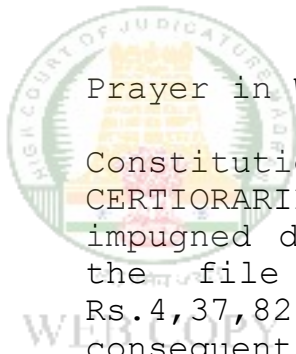
M.G.VINCY,

... RESPONDENT/RESPONDENT
CMP(MD) No.5240 of 2016 IN
WA(MD) No.SR27778 of 2014

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to delay of 364 days in paying deficit court fee of Rs.190 in W.A (MD).SR.No.27777 and 27778 of 2014 and thus render justice respectively.

PRAYER IN WA.(MD).SR.Nos.27777 and 27778 of 2016:

Writ appeal under clauses 15 of the Letters Patent against the order passed by this court in WP.(MD).NO.6819 and 12855 of 2011 dated:20.10.2011 and 1.10.2012 respectively.



Prayer in WP(MD). 12855/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIIFIED MANDAMUS, to call for the records pertaining to the impugned demand notice in Letter No.R4/VMC/11, dated 10-03-2011 on the file of the Respondent No.3 and subsequent demand of Rs.4,37,821/- as on 31-05-2011 and to quash the same as illegal and consequently to direct the Respondent No.3 to calculate interest on Different Land Cost between the original tentative land cost and the final land cost from the date of finalization of land cost i.e., 10-03-2011.

Prayer in WP(MD). 6819/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certioarified Mandamus calling for the records pertaining to the impugned demand notice in Letter No. H3/Relief /11 dated 24.02.2011 on the file of the Respondent No. 3 and quash the same as illegal and consequently to direct the Respondent No. 3 to issue the sale deed by calculating interest on Difference in Land Cost between the original tentative land cost and the final land cost from the date of finalization of land cost i.e. 24.2.2011.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.K.BALASUBRAMANI, Advocate for the petitioner, the court made the following order:-

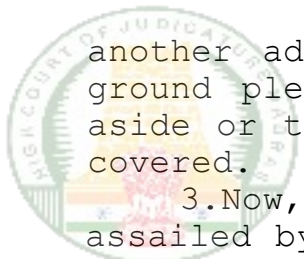
ORDER

(Order of the Court was made by **The Hon'ble The Chief Justice**)

On a writ petition (W.P(MD)No.6819 of 2011) being filed by the original petitioner seeking to quash the impugned demand notice of the appellant dated 24.02.2011, the following order was passed on 20.10.2011:-

"The issue raised in the above writ petition is covered by a common order passed on 15.07.2011 by R.Sudhakar,J., in W.P(MD)Nos.5980 to 6003 of 2011. Mr.S.Gopala Manikandan, learned Standing Counsel for the Housing Board also concedes that the issue is covered by the said decision. Therefore, following the above decision, this writ petition is also allowed, insofar as the claim for interest on the difference between the land cost. The Housing Board may re-work the interest as per the Agreement on and from the date of Board Resolution viz., 24.02.2011 till the date of payment. The exercise shall be completed, within a period of 8 weeks from the date of receipt of a copy of this order. The petitioner shall pay other amounts as determined in the notices without fail to avoid future interest. No costs. Consequently, connected miscellaneous petitions are closed".

2.A reading of the aforesaid judgment makes it apparent that the counsel for the appellant conceded that the issue was covered by



another adjudication. In the appeal, no mention has been made or ground pleaded that the judgment covering the issue has been set aside or that any erroneous statement was made that the matter was covered.

3. Now, the aforesaid judgment, dated 20.10.2011 is sought to be assailed by an appeal filed on 25.06.2011, after almost three years and that too by fixing a court fee of only Rs.10/-, leaving a deficiency of Rs.190/-. Thereafter, he has taken another one year to make good the deficiency of Rs.190/- by refiling it in June 2015 and the appeal has now been brought up before us for the first time seeking condonation of the latter delay.

4. On hearing the learned counsel for the appellant, we find that the appeal is a mindless exercise on the part of the Department seeking to get a certificate of dismissal from the Court.

5. The professed policy of both the Central and State Governments is that the docket of the Court should not be unnecessarily burdened especially when the legal issue is already covered against them. Contrary to the aforesaid professed legal policy, these appeals have been filed in routine, without application of mind and prosecuted in the most more negligent manner, one can think of. The pedantic approach of normal Government delays cannot be an answer for such inordinate delay and even that cannot be any more an excuse in view of the judgment of the Hon'ble Supreme Court in **Postmaster General Vs. Living Media India Limited, 2012 (3) SCC 563**.

6. We are thus of the view that not only the application for condonation of delay in refiling but delay in filing also cannot be condoned. Even though there is no case on merits, the Government exchequer has unnecessarily spent the amount. The Officer responsible for certifying such a case for appeal must thus be burdened with costs of the amount spent by the State Government in prosecuting the appeal and engaging the counsel.

7. We have already noticed that the impugned order on merits is based on the concession that the matter is covered by another judgment and there is no whisper in any of the grounds on the aspect that it is not so or that the earlier judgment is no more a good law. Thus the application and the appeal are dismissed. Certificate of recovery be filed within one month.

8. At this juncture, it is brought to the notice of this Court that on similar issue as many as 150 appeals are pending at the S.R., stage. In view of the above, if there are any other connected matters in which delay sought to be condoned in this nature, those matters will also stand dismissed covered by this order.

sd/-
10/06/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE SECRETARY TO GOVERNMENT
HOUSING UNIT AND URBAN DEVELOPMENT DEPARTMENT,
FORT ST. GEORGE,
CHENNAI-600 009

2 THE CHAIRMAN AND MANAGING DIRECTOR,
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SIVANTHIPATTY ROAD,
TIRUNELVELI - 627 011

Sms

sm:SKS-RR:SAR II:20.06.2016:4P/4C

ORDER

IN

CMP (MD) Nos.5239 and 5240 of 2016
IN WA (MD) Nos.SR27777 and 27778 of 2014
Date :10/06/2016