



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.12.2016

CORAM

The HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND

The HON'BLE MR.JUSTICE S.NAGAMUTHU

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W.A. (MD) Nos.1548 to 1552 of 2016
and
C.M.P.(MD) Nos.11517 to 11521 of 2016

The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Kamarajar Salai,
Tirunelveli Housing Unit,
Anbunagar, Tirunelveli.

..Appellant/Respondent in
all appeals

Vs.

N.Chelladurai

.. Respondent in
W.A.No.1548/2016

S.Jeyaprakash Rajan

.. Respondent in
W.A.No.1549/2016

K.Murugan

.. Respondent in
W.A.No.1550/2016

Pushbavalli

.. Respondent in
W.A.No.1551/2016

S.Sethuraj

.. Respondent in
w.a.NO.1552/2016

Appeals filed under Clause 15 of Letters Patent against the
Common order dated 12.12.2007 made in W.P.(MD) Nos.11287 to 11291
of 2006 on the file of this Court.

Prayer in WP(MD).11287 to 11291/2006:

Writ Petition is filed under Article 226 of the
Constitution of India, praying for issuance of Writ of
Certiorarified Mandmaus, to call for the records relating to the
proceedings of the respodnent in letter Number (i)H6/802/01 dated
06/10/2006, (ii)H6/1150/93 dated 05/09/2006, (iii)H6/6194/96, (iv)
H6/4277/92 and (v)H6/1507/93 dated 07/09/2006 respectively from
the file of the respndent and to quash the same and to direct the
respodnent not to insist the payment of the amount demanded in
their proceedings in letter number Nos.(i)H6/802/01, (ii)
H6/1150/93, (iii)H6/6194/96, (iv)H6/4277/92 and (v)H6/1507/93
dated 06.10.2006, 05.09.2006 and 07/09/2006 respectively as a
condition precedent to issue the sale deed in respect of the House
No. 158, 4HIG Type, 173LIG Type, B2-59
HIG Type, 10HIG Type in Phase I stage III in Housing Board colony,
Tenkasi.



For Appellant ..Mr.M.Balasubramani
in all WA's
For Respondents ..No appearance
in all WA's
* * * * *

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COMMON JUDGMENT

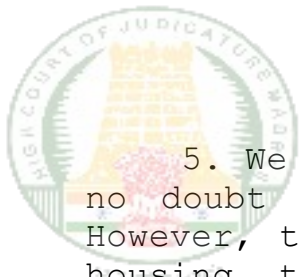
(Judgment of the Court was made by The Hon'ble Chief Justice)

The appeals are directed against the impugned order of the learned Single Judge dated 12.12.2007, which has been brought up before this Court only in the year 2016. The respondents are allottees of flats by the Tamil Nadu Housing Board under different categories. The initial cost indicated, the price as tentative. It is the case of the appellant that the land cost was increased, as a consequence of the value determined in the acquisition proceedings on 20.11.2002 and thereafter the final land cost was sent to the allottees in October 2006, after lapse of four years.

2. The impugned order refers to the respondents seeking quashment of the demand notice on the ground that in calculating the interest, even the part of the period where the appellant has unreasonably delayed in fixing the land cost has been taken into account.

3. The defence before the learned Single Judge was that the appellant raised loans from the nationalised banks and are paying heavy interest for the same and thus, if any waiver takes place, the financial burden would have to be borne by the Board. It is also the say of the appellant recorded by the learned Single Judge that the finality to the land cost could be achieved after the acquisition proceedings are concluded and since tentative land cost is the basis for the earlier demand, the subsequent demand was raised on the basis of the final land cost.

4. The learned Single Judge has granted only limited relief in the impugned order. That relief emanates from the fact that if the appellant take four years to fix the final land cost from the date of disposal of the acquisition proceedings, then the allottees cannot be burdened with the interest for that period of time. The interest has been permitted to be calculated on the final cost arrived at within a reasonable period of time but beyond that period of time till the date of issue of demand notice, it has been held that the appellant cannot collect the cost. The impugned demand notices were thus quashed and the appellant was permitted to arrive at a final cost without imposing any interest on the final cost from 01.06.2003, taking the period of seven months as sufficient, from the date of the order passed in the acquisition proceedings on 20.11.2002, when the relevant data was available to the appellant to work out the cost.



(3)

5. We have heard the learned counsel for the parties. It is no doubt true that these are matters arising from a contract. However, the appellant Board performs function of making available housing to the needy persons who do not have any housing available. The object is to provide housing to the public at large at a reasonable cost. Thus, the commercial principles which would apply in the case of market purchase would certainly not apply in the present case.

6. It is no doubt true also that the appellant should not suffer on account of increase of land cost. That is not what happened nor there is challenge to that. The complete increase of land cost burden is sought to be transferred to the allottees, over which there is no quibble. Not only that the learned Single Judge has taken a reasonable period of time from 20.11.2002 to 01.6.2003 as the period within which the demand should have been raised and interest can be permitted to be levied for that period also. If the officers of the appellant are sitting without doing their duty, then the public at large cannot be made to suffer for that. It is for the appellant who should have taken action against the officers responsible for such delay and cannot pass the burden of the inaction of its officers on the respondents. We are unable to accept the plea that the period of four years would be required to work out the final land cost.

7. We may notice that in the grounds of appeal it is sought to be stated that some of the persons have actually paid the final land cost as demanded, and got the documents registered. If that be the position, that is their option. This cannot defeat the rights of the respondents who have approached the Court for redressal of their grievance.

8. We find no merit in these appeals and the appeals are dismissed. No costs.

Sd/-

Assistant Registrar(Crl.side)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board, Kamarajar Salai,
Tirunelveli Housing Unit, Anbunagar, Tirunelveli.

+1cc to M/s.K.Balasubramani, Advocate in SR.74675

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