

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1230 OF 2014

1.The Managing Director,  
Tamil Nadu Housing Board,  
331, Anna Salai, Chennai 35

2.The Executive Engineer,  
cum Administrative Officer,  
Tamil Nadu Housing Board,  
Surampatti Nall Road,  
Erode 638 009

... Appellants

versus

1.The Secretary to Government,  
Housing and Urban Development,  
Fort St.George,  
Chennai 600 009.

2.Anna Nagar House Owners Welfare Association,  
Regn.No.51/95, rep. By its Secretary,  
Anna Nagar, Nasiyur Road,  
Erode 638 011.

... Respondents

Appeal filed against the order passed by this Court dated 22.11.2013 in W.P.No.443 of 2011.

WP.No.443 of 2011:Praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the 3rd respondents and to quash the claim in proceeding Letter No.R6/03819/09, dated 01.12.2009 to the members of the Petitioner Association and forbear the 3rd respondent from claiming the interest, additional land cost and amounts in the name of left out amounts as stated in the impugned communication and consequently direct the 2nd respondent to execute the sale deeds in favour of the members of the petitioner's association in respect of houses allotted to them and also to direct the 2nd respondent to refund the amount claimed by way of building cost.

For appellants : Mr.K.Venkataramani,  
Additional Advocate General,  
Assisted by Mr.V.Anandhamoorthy, A.G.P.

For Respondents : Ms.A.Srijayanthi, Spl.G.P., for R-1  
Mr.V.Perumal, for R-2

## J U D G M E N T

(made by K.K.SASIDHARAN, J.)

This intra court appeal is directed against the order dated 22 November 2013 in W.P.No.443 of 2011 whereby and whereunder, the learned Single Judge has arrived at a finding that the liability of the members of Anna Nagar House Owners Welfare Association is only to pay interest on the differential cost from 11 November 2009 and not from 16 April 2012, the date on which final cost was arrived at by the Tamil Nadu Housing Board.

2. We have heard the learned Additional Advocate General on behalf of the Tamil Nadu Housing Board (hereinafter referred to as "the Housing Board"). We have also heard the learned counsel for the second respondent.

3. The members of the Anna Nagar House Owners association, the second respondent herein, purchased house plots from the Housing Board. The allotment was made in the year 1998. Since the claim made by the land owners was pending before the Courts, final cost was not fixed by the Housing Board. The Housing Board by proceedings dated 11 November 2009, determined the final cost payable by the individual allottees.

4. The Hon'ble Supreme Court by order dated 30 September 2010, disposed of the appeals in Civil Appeal Nos.1760 and 1761 of 2004 filed against the order determining the compensation by the High Court. The Housing Board after the disposal of the appeals, determined the cost once again, taking into account the amount payable to the erstwhile land owners. The Board proceedings dated 16 April 2012 enhanced the land cost to Rs.1,29,500/-. The allottees were directed to pay interest from the initial date of allotment. Feeling aggrieved by the said decision, the Association filed the Writ Petition.

5. The learned Single Judge allowed the Writ Petition and held that the liability was to pay interest only from the date of determination of the amount payable by the 2<sup>nd</sup> respondent and not from the previous date. The order is under challenge at the

instance of the Housing Board.

6. There is no dispute that only the tentative cost was fixed by the Housing Board earlier. It was so, because proceedings were pending before the High Court relating to the claim for higher compensation. It would not be possible for the Housing Board to fix the final cost without there being a disposal of the valuation proceedings. The Housing Board, by resolution dated 11 November 2009, determined the final cost, even before the disposal of the civil appeals. Subsequent to the disposal of the civil appeals, the Housing Board redetermined the final cost payable by the allottees.

7. The learned Single Judge opined that the liability to pay interest would come into play only from 11 November 2009, the date on which cost was fixed by the Housing Board. We are not in agreement with the views expressed by the learned Single Judge with respect to the cut off date for payment of interest.

8. The Housing Board is obliged to pay interest to the land owners from whom the land was acquired. The land owners are entitled to statutory interest. Necessarily, the Housing Board has to collect interest amount from the allottees. The memo of calculation submitted by the Board clearly shows that it was only the amount which was paid to the land owners, which was sought to be recovered from the allottees. We are therefore of the view that the learned single Judge was not correct in restricting the interest from 11 November 2009.

9. Even though the civil appeals were disposed of by the Hon'ble Supreme Court on 30 September 2010, the fact remains that only after a period of two years, the Housing Board determined the amount payable by the allottees. The delay in calculating the amount cannot be attributed to the allottees. The Housing Board ought to have determined the final cost within a reasonable period, after the disposal of the civil appeals. We are therefore of the view that the Housing Board is not entitled to interest after the disposal of the civil appeals.

10. We give liberty to the Housing Board to calculate the amount payable by the allottees. The Board is entitled to calculate interest up to 31 December 2010. This cut off period is prescribed by giving three months time to the Housing Board to calculate the amount, taking into account the order dated 30 September 2010, in the civil appeals disposed of by the Hon'ble Supreme court. Though the allottees are liable to pay interest from the initial date of allotment to the date of determination of final cost, which we fixed at 31 December 2010, they are not liable to pay interest beyond the said date.

11. We are informed that the Housing Board has announced a waiver scheme to waive interest. The learned Additional Advocate General submitted that allottees in the subject case are also entitled to the benefits of the waiver scheme. According to the learned Additional Advocate General, the interest amount to be waived would be deducted in each case and only the balance amount would be recovered from the allottees.

12. The Housing Board is given eight weeks time from today to determine the amount and issue notice to the allottees for payment of the balance amount. The allottees must pay the amount within a period of two months thereafter, failing which, the balance amount would carry interest @ 9% per annum.

13. The writ appeal is allowed in part. No costs. M.P.No.1 of 2014 is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director,  
Tamil Nadu Housing Board,  
331, Anna Salai, Chennai 35

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cum Administrative Officer,  
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Erode 638 009

3.The Secretary to Govt  
Housing and urban development  
Fort St.George Chennai-600 009

+1 cc to M/s.V.Anandhamurthy Advocate sr 78331  
+1 cc to Govt Pleader sr 78309

W.A.No.1230 OF 2014

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