

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2017

CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1484 of 2013
and
M.P.No.1 of 2013

1. Tamil Nadu Housing Board
Rep. by its secretary and Personal Officer
No.493, Anna Salai, Nandanam
Chennai 600 035.
 2. The Executive Engineer &
Administrative Officer, Mogappair Division
Tamil Nadu Housing Board
Thirumangalam Shopping Complex
Anna Nagar West
Chennai 600 101. ...Appellants/Respondents
- Vs.
- 1.E.Rameshan
 - 2.A.P.Usha ...Respondents/Petitioners

Prayer: The Writ Appeal has been filed under Clause 15 of the Letters Patent to allow this writ appeal by setting aside the order made in W.P.No.27338 of 2009 dated 28.03.2012.

Prayer in W.P.No.27338 of 2009:

This Writ Petition is filed under Article 226 of the constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the 2nd respondents Letter No. MRA.6/11264/2004 dated 9.12.2008 (signed on 14.12.2009 and received on 22.12.2009 only) quash the same and direct the respondents to refix the price of Plot No.20 MIG Type at Nolambur Phase II Scheme by taking into consideration the price fixed by the respondents for Plot No. MIG 118 at Nolambur Phase II Scheme in December 2002.

For Appellants	: Mr.K.Venkataramani AAG Mr.V.Anandhamurthy
For Respondents	: Mr. M. Venkatachalapathy S.C. for Mr.K.Rajasekaran

J U D G M E N T
(Judgment of the Court was made by P.VELMURUGAN,J.)

The appellant had filed this appeal to direct the respondents to refix the price of Plot No.20, MIG Type at Nolambur, Phase II Scheme by taking into consideration the price fixed by the respondents for Plot No.M.I.G 118 at Nolambur Phase II Scheme in December 2002.

2.The case of the respondents before the writ Court is that , t this Court in its order dated 29.05.2008 in W.P.No.12211 of 2008 had directed the appellants herein to allot Plot No.20, M.I.G. Type, at Nolambur Phase II, to the respondents within a period of four weeks from the said order. As per the direction of this Court, the appellants had allotted said plot in question in favour of the respondents in the year 2008. As per the order dated 29.05.2008 made in W.P.No.12211 of 2008 the respondents are liable to pay a sum of Rs.20,16,350/- for the plot in question which was allotted to the respondents. But, whereas the appellants only by the allotment order dated 09.12.2009, asking the respondents to pay a sum of Rs.46,94,560/- said to be the price fixed by the Pricing Committee and approved by the Board, by its Resolution No.6.11, dated 30.10.2009. Aggrieved by the said order dated 09.12.2009, the respondents / petitioners had filed the writ petition.

3.The learned single judge after hearing the arguments of both sides held that the appellants/petitioners cannot be made liable to pay the enhanced price of the plot in question as fixed by the pricing committee, during the end of the year, 2009 i.e., the claim of the respondents that the petitioners are liable to pay a sum of Rs.46,94,560/- are unsustainable in the eye of law.

4.Aggrieved by the order passed by the learned single judge, the Tamil Nadu Housing Board / Appellants had preferred this writ appeal before this Court.

5.Heard the rival submissions made on either side and also perused the records placed before this Court. The learned counsel for the appellants would submit that pursuant to the order dated 29.05.2008, in W.P.No.12211 of 2008, the appellants allotted Plot No.20, M.I.G. Type, Phase-III to the respondents and the Pricing committee had recommended to fix the cost at Rs.2,080/- per sq. ft. in respect of plot No.20, M.I.G. Type at Nolambur Phase II Scheme which is the subject Plot. The same was also approved by the Board, in its Resolution No.6.11 dated 30.10.2009 based on the recommendation of the Committee, the cost of Plot No.20, M.I.G. Type, at Nolambur Phase II, measuring

2257 sq. st. was fixed at Rs.46,94,560/-. The cost of the plot had been fixed as per the rules and regulations of the Board. The respondents instead of paying the cost of the plot as per the allotment order, they have filed writ petition in W.P.No.12211 of 2008 without any reason. The learned counsel for the appellants would submit that the actual extent of the land is 2257 sq. ft. since, the plot is in irregular shape, they have calculated the amount only to the lesser extent of 2080 sq. ft. Per contra, the learned counsel for the respondents would submit that the Tamil Nadu Housing Board / Appellants, have allotted the Plot No.20 in question only as per the direction issued by this Court by its order dated 29.05.2008 made in W.P.No.12211 of 2008. Therefore, the respondents are liable to pay only a sum of Rs.20,16,350/-, as the cost of the plot as per the price prevailing at the relevant point of time, the value of the Plot in question at the relevant point of time was Rs.20,16,350/- as noted from the affidavit, dated 25.03.2012 filed on behalf of the second respondent. The respondents cannot be compelled to pay a sum of Rs.46,94,560/- as fixed by the Pricing Committee and approved by the Board in its Resolution No.6.11 dated 30.10.2009. The price fixed by the committee is arbitrary without any basis, hence they have filed the writ.

6. Considered the rival submissions made on either side. During the arguments, we have called for the guideline value register from the concerned Sub-Registrar Officer and the same was produced. We have also perused the same.

7. It is not in dispute that the respondents filed W.P.No.12211 of 2008 dated 29.05.2008 and the direction was issued to the appellants to allot Plot No.20, M.I.G. Type, at Nolambur Phase II. Accordingly, the appellants have also allotted the plot and as per norms the pricing committee has fixed the value of the plot and the same was approved by the Board in the resolution No.6.11 dated 30.10.2009. Based on the resolution price was fixed and communicated to the respondents by way of allotment order, the respondents instead of accepting the allotment order and to pay the price of the land had challenged the amount fixed by the committee by the writ impugned.

8. The learned single judge has declared that the price fixed by the Tamil Nadu Housing Board / Appellants are unsustainable in the eye of law. Aggrieved by the same, the Housing Board has preferred the present appeal considering the facts and circumstances of the case, the prevailing rate as on date and the order of the allotment dated 30.10.2009, there is no reason to say that the price fixed by the appellants is arbitrary which is excessive in proportionate to that of price of the market

rate of the land as on date of allotment.

9.The learned single judge has failed to consider the allotment of Plot No.20, M.I.G. Type, situated in a prime locality in Chennai and also the prevailing market rate as on the date of allotment and allowed the writ petition without giving any reasons that the price fixed by the committee are unsustainable. During the arguments, we directed the Sub-Registrar, Konnur, Chennai-49 to appear before us in person along with the guideline register for the land bearing Plot No.20 M.I.G Type at Nolambur, Phase II Scheme floated by the TamilNadu Housing Board for the period from 01.04.2008 to 30.09.2008. Accordingly, he appeared on 12-12-2017 and brought the relevant register for the said period. He has also produced a true copy of the guideline value from 01.08.2007 to 31.03.2012 for Nolambur village wherein the guide value of the lands for the relevant period is shown as Rs.2,600/- per sq.ft. Therefore, considering the location, extent and prevailing guideline value of the plot and fixing the price for the other nearby lands, this court is inclined to grant the prayer made by the appellants and the price fixed by the appellants for Plot No.20, M.I.G. Type, at Nolambur Phase II is just and very reasonable.

10.In the result, The Housing Board has already fixed the cost of the plot at Rs.46,94,560/-. It was the Housing Board who has filed the appeal. We are of the view that the liability of the respondent is only to pay a sum of Rs.46,94,560/- rounded off to Rs.46,00,000/-, less the amount already paid. The said amount shall be paid on or before 31.03.2018 without interest. In case, the amount is not paid within the cut off date, the respondent is liable to pay interest which is usually charged by the Housing Board. On making such payment, the Housing Board is directed to execute the sale deed within a period of two weeks thereafter. The intra court appeal is disposed of with the above direction. Since the sale amount is fixed only at Rs.46,00,000/-, the concerned Sub-Registrar shall fix the land value taking into account the amount indicated above and without reference to the then guideline rate. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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To

1. The secretary and Personal Officer
Tamil Nadu Housing Board
No.493, Anna Salai, Nandanam
Chennai 600 035.

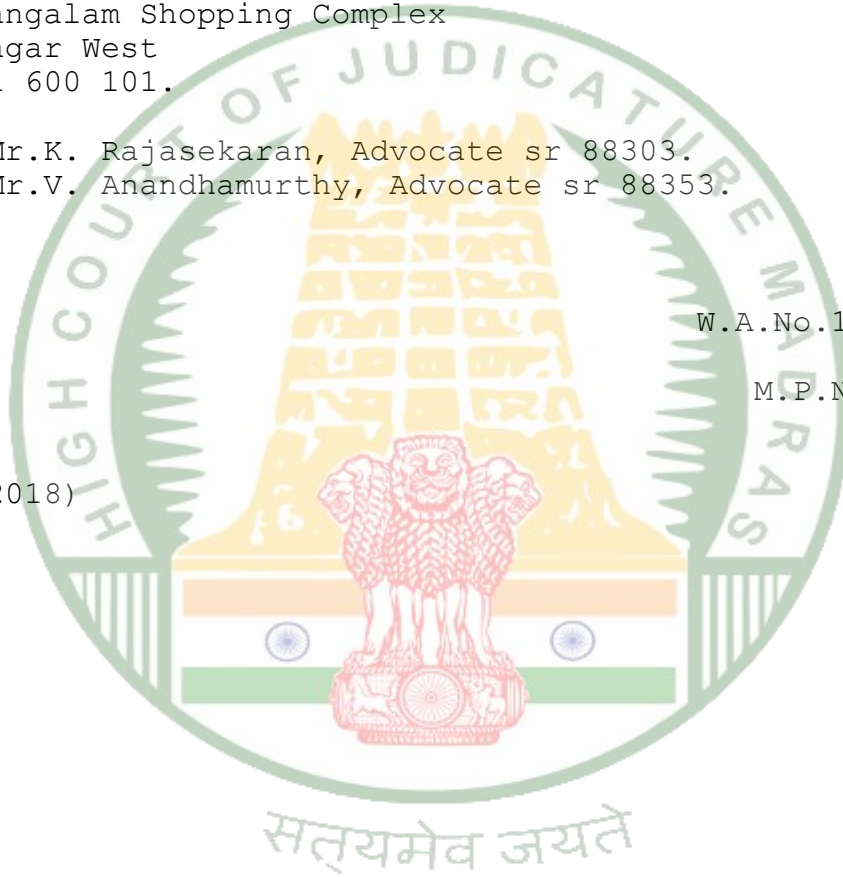
2. The Executive Engineer &
Administrative Officer, Mogappair Division
Tamil Nadu Housing Board
Thirumangalam Shopping Complex
Anna Nagar West
Chennai 600 101.

+1 CC to Mr.K. Rajasekaran, Advocate sr 88303.

+1 CC to Mr.V. Anandhamurthy, Advocate sr 88353.

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M.P.No.1 of 2013

AK(CO)
SP(12/01/2018)



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