



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.A.[MD].Nos.296 to 306 of 2017

and

W.A.(MD).Nos.319 to 321 of 2017

and

C.M.P(MD).Nos.3067 to 3077 of 2017 and 3201 to 3203 of 2017

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

: Appellant/Respondent in all WA's

Vs.

P.K.S.Narendra Deva

: Respondent/Petitioner in
W.A.(MD).No.296 of 2017

G.Srinivasan

: Respondent/Petitioner in
W.A.(MD).No.297 of 2017

A.Sivagamy

: Respondent/Petitioner
in W.A.(MD).No.298 of 2017

S.Paramasivam

: Respondent/Petitioner
in W.A.(MD).No.299 of 2017

Sarojini

: Respondent/Petitioner
in W.A.(MD).No.300 of 2017

M.Sunnajohn

: Respondent/Petitioner
in W.A.(MD).No.301 of 2017

R.Ramachandran

: Respondent/Petitioner
in W.A.(MD).No.302 of 2017

T.Ramar

: Respondent/Petitioner
in W.A.(MD).No.303 of 2017

P.Gurunathan

: Respondent/Petitioner
in W.A.(MD).No.304 of 2017

N.Subburam

: Respondent/Petitioner
in W.A.(MD).No.305 of 2017

A.G.Ganeshkumar

: Respondent/Petitioner
in W.A.(MD).No.306 of 2017

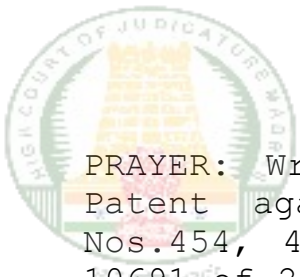
T.Jothi

: Respondent/Petitioner
in W.A.(MD).No.319 of 2017

B.Paulsingh

: Respondent/Petitioner
in W.A.(MD).No.320 of 2017

: Respondent/Petitioner
in W.A.(MD).No.321 of 2017



PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent against the order dated 12.12.2007 made in W.P.(MD). Nos.454, 455, 457, 458, 459, 460, 461, 658, 1838, 3673 of 2007, 10691 of 2006, 11339, 11341 and 11340 of 2006, on the file of this Court.

WLB COPY

Prayer in WP(MD). 454/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Letter Number H6/4996/90 dated 07/09/2006 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/4996/90 dated 07/09/2006 as a condition precedent to issue the sale deed in respect of the House bearing door Number 20 HIG Type in Housing Board Colony, Tenkasi.

Prayer in WP(MD). 455/ 2007 :

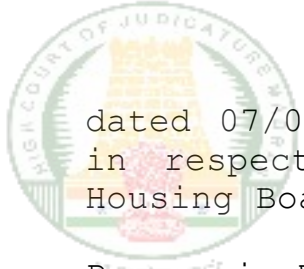
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Letter Number H6/861/01 dated 09/01/2007 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/861/01 dated 09/01/2007 as a condition precedent to issue the sale deed in respect of the House bearing door Number 155 HIG Type in Housing Board Colony, Tenkasi.

Prayer in WP(MD). 457/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Letter Number H6/3257/99 dated 07/09/2006 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/3257/99 dated 07/09/2006 as a condition precedent to issue the sale deed in respect of the House bearing door Number 129 LIG Type in Housing Board Colony, Tenkasi.

Prayer in WP(MD). 458/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Letter Number H6/6164/96 dated 07/09/2006 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/6164/96



dated 07/09/2006 as a condition precedent to issue the sale deed in respect of the House bearing door Number 159 LIG Type in Housing Board Colony, Tenkasi.

Prayer in WP(MD). 459/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Letter Number H6/M-199/96 dated 07/09/2006 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/M-199/99 dated 07/09/2006 as a condition precedent to issue the sale deed in respect of the House bearing door Number 199 MIG Type in Housing Board Colony, Tenkasi .

Prayer in WP(MD). 460/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Letter Number H6/3259/96 dated 07/09/2006 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/3259/96 dated 07/09/2006 as a condition precedent to issue the sale deed in respect of the House bearing door Number 172 LIG Type in Housing Board Colony, Tenkasi.

Prayer in WP(MD). 461/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Letter Number H6/3258/99 dated 07/09/2006 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/3258/99 dated 07/09/2006 as a condition precedent to issue the sale deed in respect of the House bearing door Number 128 LIG Type in Housing Board Colony, Tenkasi.

Prayer in WP(MD). 658/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of certiorarified mandamus, to call for the records relating to the proceedings of the respondent in letter Number H6/5051/92 dated 5/09/2006 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/5051/92 dated 05/09/2006 as a condition precedent to issue the sale deed in respect of the house bearing door Number 24 HIG Type in Housing Board Colony, Tenkasi .



Prayer in WP(MD). 1838/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ or Direction or any other order particularly in the nature of WRIT OF CERTIORARIFIED MANDAMUS to call for the records relating to the proceedings of the respondent in Letter Number.H6/6326/93 dated 18/1/2007 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/6326/93 dated 18/1/2007 as a condition precedent to issue the sale deed in respect of the House bearing door Number 203 MIG Type in Housing Board Colony, Tenkasi .

Prayer in WP(MD). 3673/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in Letter number H6/7744/97 dated 12/03/2007 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/7744/97 dated 12/3/2007 as a condition precedent to issue the sale deed in respect of the house bearing door No. 229 MIG type in Housing Board colony, Tenkasi.

Prayer in WP(MD). 10691/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified mandamus to call for the records relating to the proceedings of the respondent in Letter Number H6/1237/2000 dated 06/10/2006 from the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H6/1237/2000 dated 06/10/2006 as a condition precedent to issue the sale deed in respect of the House bearing door Number 153 HIG group in Phase I stage III in housing Board colony, Tenkasi.

Prayer in WP(MD). 11339/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court a WRIT OF CERTIORARIFIED MANDAMUS Call for the records relating to the proceeding of the respondent in Letter Number H6/3253/99 dated 7/9/2006 on the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H/ 3253/99 dated 7/9/2006 as a condition precedent to issue the sale deed in respect of the House bearing door no. 186 LIG group in phase II, in Housing Board



Prayer in WP(MD). 11341/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court a WRIT OF CERTIORARIFIED MANDAMUS Call for the records relating to the proceeding of the respondent in Letter Number H6/3238/99 dated 7/9/2006 on the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H/ 3238/99 dated 7/9/2006 as a condition precedent to issue the sale deed in respect of the House bearing door no. 144 LIG group in Housing Board Colony, Tenkasi.

Prayer in WP(MD). 11340/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court a WRIT OF CERTIORARIFIED MANDAMUS Call for the records relating to the proceeding of the respondent in Letter Number H6/6144/96 dated 7/9/2006 on the file of the respondent and to quash the same and to direct the respondent not to insist the payment of the amount demanded in their proceedings in letter number H/ 6144/96 dated 7/9/2006 as a condition precedent to issue the sale deed in respect of the House bearing door no. 190 LIG group in phase II, in Housing Board Colony, Tenkasi.

For Appellant	: Mr.K.Balasubramani
	Standing Counsel
For Respondents	: Mr.V.Kannan

COMMON JUDGMENT

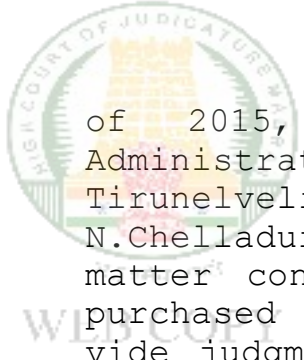
[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.K.Balasubramanian, learned Standing Counsel appearing for the appellant and Mr.V.Kannan, learned counsel appearing for the respondents.

2. Since the issue involved in all these Writ Appeals is common, they were heard together and the Writ Appeals are disposed of by means of this Common Judgment.

3. These Writ Appeals by the Tamil Nadu Housing Board are directed against the Common Order, dated 12.12.2007, made in W.P. (MD).Nos.454, 455, 457, 458, 459, 460, 461, 658, 1838 of 2007, 10691 of 2006, 11339, 11341 and 11340 of 2006 passed by the Writ Court.

<https://hcservices.ecourts.gov.in/hcservices>
4. The learned Standing Counsel for the appellant would fairly submit that the issue involved in these Writ Appeals is covered by the decision of the Hon'ble First Bench in Writ Appeal (MD)No.1548



of 2015, dated 01.12.2016, [The Executive Engineer and Administrative Officer, Tamil Nadu Housing Board, Kamarajar Salai, Tirunelveli Housing Unit, Anbunagar, Tirunelveli vs. N.Chelladurai], wherein an identical issue was considered. The matter concerns the fixation of final land cost for the plots purchased by the respondents/Writ Petitioners. The First Bench, vide judgment dated 01.12.2016, dismissed the Writ Appeals filed by the Housing Board. At this juncture, it would be beneficial to extract the relevant portion of the said Judgment, which reads as follows:-

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.



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5. Thus, following the above decision of the First Bench, these Writ Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

/True Copy/

Sd/-
Assistant Registrar (CSII)

Sub-Assistant Registrar

To

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

+One cc to Mr.K.Balasubramani, Advocate, SR.No.50147

NB
RL/3C/MMS/SAR4/9.5.2017

COMMON JUDGMENT MADE IN
W.A.[MD].Nos.296 to 306 of 2017
and
W.A.(MD).Nos.319 to 321 of 2017

28.03.2017