



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2017

CORAM:

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**THE HONOURABLE MR.JUSTICE R.SUBBIAH**  
**AND**  
**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**W.A.[MD].Nos.9 to 17 of 2017**  
**and**  
**C.M.P.(MD).Nos.211 to 219 of 2017**

The Executive Engineer and Administrative Officer,  
Tamil Nadu Housing Board,  
Tirunelveli Housing Unit,  
Anbunagar, Tirunelveli. : Appellant in all Writ Appeals

Vs.

|                  |                                        |
|------------------|----------------------------------------|
| M.Subramanian    | : Respondent in W.A.(MD).No.9 of 2017  |
| Murugaiah        | : Respondent in W.A.(MD).No.10 of 2017 |
| S.Anantharaj     | : Respondent in W.A.(MD).No.11 of 2017 |
| R.Lakshmi        | : Respondent in W.A.(MD).No.12 of 2017 |
| A.Jainulabdeen   | : Respondent in W.A.(MD).No.13 of 2017 |
| Lakshmanan       | : Respondent in W.A.(MD).No.14 of 2017 |
| S.Suganthi Bhanu | : Respondent in W.A.(MD).No.15 of 2017 |
| S.Krishnan       | : Respondent in W.A.(MD).No.16 of 2017 |
| E.Karuppiah      | : Respondent in W.A.(MD).No.17 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).No.205 to 212 and 1837 of 2007, on the file of this Court.

Prayer in WP(MD) Nos.205 to 212 of 2007 & 1837/2007

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the respondent in Letter Nos H6/1405/93; H6/1559/97 dated 7/09/2006; H6/5114/96 dated 26.12.2006; H6/M-180/96; H6/438/97; H6/5487/96; H6/3205/99; H6/5567/94 dated 07.09.2006 and H6/6258/96 dated 07.09.2006 from the file of the respondent and quash the same and to direct the respondent not to insist upon payment of the amount demanded in proceedings in Letter Nos H6/1405/93; H6/1559/97 dated 7/09/2006; H6/5114/96 dated 26.12.2006; H6/M-180/96; H6/438/97; H6/5487/96; H6/3205/99; H6/5567/94 dated 07.09.2006 and H6/6258/96 dated 07.09.2006 as a condition. Precedent to issue the sale deed in respect of the Houses bearing door numbers B1-36 MIG Group; H139-HIG group; HIG 135 Type in Phase I Stage III; MIG 180 Type in



Phase I Stage III; 137 HIG Type in Phase I Stage III; 204 MIG Type in Phase I Stage III; 130 LIG Type in Phase I Stage III; 95 MIG Type in Phase I Stage III and 151 LIG in Housing board colony, Tenkasi.

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For Appellant : Mr.K.Balasubramanian

For Respondents : Mr.V.Kannan

### COMMON JUDGMENT

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

2. Challenge in these Writ Appeals is to the order dated 12.12.2007, made in W.P.(MD).Nos.205 to 212 and 1837 of 2007, which have been brought up before this Court only in the year 2017.

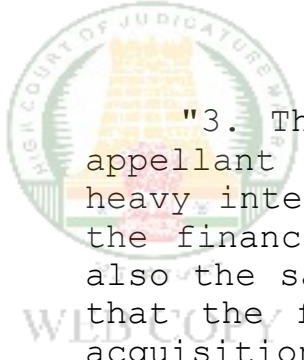
3. The said Writ Petitions were filed challenging the proceedings of the appellant herein dated 07.09.2006 and 26.12.2006 and for a direction to the respondent not to insist upon payment of the amount demanded in the aforesaid proceedings as condition precedent to issue the sale deed in respect of the respective houses of the respondents herein.

4. The impugned order refers to the respondents seeking to quash 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.

5. The learned Single Judge, by a Common Order dated 12.12.2007, while quashing the impugned proceedings, directed the appellant herein to arrive at the final cost, without imposing any interest on the final cost from 01.06.2003, till the date of the impugned proceedings and issue afresh demand notices adopting the usual procedures to enable the respondents herein to make payment of the amount. The said order is questioned in these Writ Appeals.

6. We have heard the learned counsel appearing for the appellant, the learned counsel appearing for the respondents and we have also perused the records carefully.

7. A similar issue came up for consideration before the First Service Accounts Court in W.A. (MD) Nos.1548 to 1552 of 2016, dated 01.12.2016, wherein it has been held as follows:-

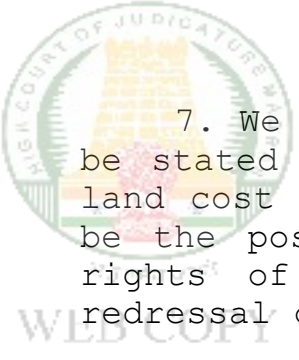


"3. The defence before the learned Single Judge was that the appellant raised loans from the nationalised banks and are paying heavy interest for the same and thus, if any waiver takes place, the financial burden would have to be borne by the Board. It is also the say of the appellant recorded by the 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.

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. Following the said Judgment, the present Writ Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

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

+1 CC to M/s.V.KANNAN, Advocate, SR No. 2873.

+1 CC to M/s.K.BALASUBRAMANI, Advocate, SR No. 2967

+1 CC to M/s.S.MUTHUMALAIRAJA, Advocate, SR No. 2843.

NB  
PSM/CM-MSA/03.02.2017/4P/5C

COMMON JUDGMENT MADE IN  
W.A.[MD].Nos.9 to 17 of 2017  
18.01.2017