

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 30.01.2017****CORAM**

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH**W.P(MD)No.9326 of 2013**

1.S.Karuppanan
2.K.Krishnaveni

.. Petitioners

Vs.

1.Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 9.

2.Tamil Nadu Housing Board,
Rep. By its Managing Director,
493, Annal Salai, Nandanam,
Chennai.

3.The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit,
Ellis Nagar,
Madurai - 625 010.

.. Respondents

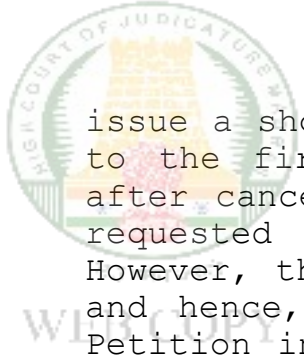
Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order vide letter No.ஒதுக்கீடு 2(1)/64449/2006, dated 08.03.2013 passed by the second respondent and quash the same and consequently direct the respondents to complete the process of allotment made in favour of the petitioners vide G.O.Ms.2(D)No.5, dated 04.01.2006.

For Petitioners : Mr.T.Antony Arul Raj

For Respondents : Mr.S.Nagarajan

ORDER

The petitioners were allotted with the commercial plot bearing No.P10 in sector 1 and 2 of Madurai North Neighbourhood Scheme through G.O.Ms.2(D)No.5, dated 04.01.2006, which subsequently came to be cancelled by G.O.(1D)No.83, Housing and Urban Development (HBI) Department, dated 08.01.2008. Challenging the cancellation, the petitioner had filed a Writ Petition in W.P(MD)No.3579 of 2008 and by an order, dated 28.11.2008, the cancellation was set aside and the respondents were given liberty to

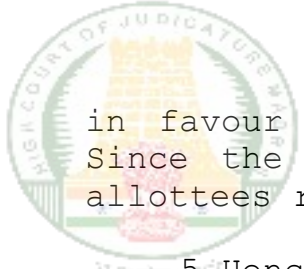


issue a show cause notice and pass orders, after giving opportunity to the first petitioner. Since the allotment came to be revived after cancellation of setting aside the order, the petitioners had requested the respondents to execute sale deed in their favour. However, the respondents did not accede to the petitioners' request and hence, the petitioners were constrained to file another Writ Petition in W.P(MD)No.10095 of 2011. This Court by an order, dated 11.02.2013, had directed the respondents to consider the petitioners' representation within a stipulated time. On 08.03.2012, the second respondent had passed an order stating that with effect from 06.01.2011, the allotment under Government discretionary quota has been discontinued and therefore, the petitioners' request for the allotment of the land in their favour cannot be considered. Aggrieved against the same, the petitioners are before this Court.

2.The learned counsel for the petitioners submitted that when an earlier cancellation was set aside by an order dated 28.11.2008, the allotment order was revived and therefore, they were entitled for execution of a sale deed in their favour as on that date. The present impugned order proceeds on the footing as if the petitioners are seeking for an allotment. The learned counsel also submitted that the respondents are not correct in stating that the discretionary allotment was withdrawn with effect from 06.01.2011 and therefore, the petitioners' allotment cannot be considered is incorrect, since the petitioners' original allotment was made at an earlier point of time.

3.The learned counsel for the respondents on the other hand submitted that in view of G.O.Ms.No.6, dated 07.01.2011, the allotment under the Government discretionary quota has been withdrawn and as such, the petitioners' request for allotment under the said quota cannot be considered. Stating so, the learned counsel submitted that the respondents had correctly passed the impugned order.

4.It is now brought to my notice that earlier in a batch of Writ Petitions in W.P(MD)Nos.4604 to 4610 of 2015, pertaining to the same allotment under discretionary quota, this Court had passed an order directing the respondents to consider the petitioners representation for execution of a sale deed on its own merits and in accordance with law within a stipulated time. Pursuant to the order, the respondents had considered those petitioners' representation and had chosen to execute sale deeds in favour of those allottees. Two such orders had been produced before me. It is not in dispute that the petitioners in W.P(MD)Nos.4604 to 4610 of 2015 are also similarly placed as that of the petitioners in this Writ Petition. I do not find any reason as to how the respondents can discriminate among the set of allottees. In the present case on hand, the petitioners were allotted in the discretionary quota like that of the other petitioners in the batch of Writ Petitions referred above. As such, the impugned notice refusing to execute the sale deed



in favour of the petitioners is a clear case of discrimination. Since the petitioners are similarly placed as that of the other allottees referred above, the petitioners are liable to succeed.

5.Hence, the impugned order, dated 08.03.2012 is quashed. Consequently, the second respondent is directed to execute a sale deed in favour of the petitioners for the plot bearing No.P10 in sector 1 and 2 of Madurai North Neighbourhood Scheme within a period of twelve weeks from the date of receipt of a copy of this order.

6.With the above observations, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

1.Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St. George,
Chennai - 9.

+1 cc to M/s.S.Nagarajan, Advocate in SR.No. 5132/17

+1 cc to M/s.T.Antony Arul Raj, Advocate in SR.No. 5060

ps

JS/CM-MSA/10.02.2017 :3P/4C

W.P(MD)No.9326 of 2013
30.01.2017