

HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.19796 of 2009

ORDER:

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the cancellation of allotment of MIG Plot No.54, Phase XV, Kukatpally, vide proceedings 54/ MIG/ PH/ XV/ EE/ WD/ 93, dated 30.01.2006, issued by the first respondent, as illegal and arbitrary.

2. The first respondent is said to have advertised for allotment of residential houses on hire purchase basis/ outright sale or under self-finance scheme under HIG, MIG, LIG and EWS categories. Pursuant thereto, the petitioner is said to have submitted an application on 31.07.1993, along with the earnest money of Rs.6,500/- for allotment of plot under SC category which was acknowledged. It is stated that the petitioner was allotted house plot, under MIG in the year 1994. Subsequently, the petitioner is said to have paid Rs.67,000/- through demand draft on 15.12.2005, which was returned to him after two months and the allotment has been cancelled on the ground of late payment. Aggrieved thereby, the petitioner filed a petition before the Human Rights Commission. While the petition was pending, the first respondent, without any authority, kept the plot for auction, instead of imposing penalty for delay in presenting demand drafts. The action of the first respondent in returning the demand drafts and

cancelling the allotment of the plot lead to filing of the present writ petition.

3. Though this Court issued *rule nisi* on 07.04.2011, no interim orders came to be passed in favour of the petitioner.

4. A counter came to be filed by the first respondent disputing the averments made in the affidavit filed in support of the writ petition. The counter refers to various issues, more particularly, with regard to the terms and conditions of the auction and relevant rules that were followed, before cancelling the allotment made to the petitioner.

5. The fact that the petitioner was allotted MIG plot No.54, under Phase XV at Kukatpally, under 50%down payment category is not in dispute. It is also not in dispute that the petitioner was informed about the allotment, vide letter dated 31.10.1994 and that the petitioner has submitted two demand drafts for Rs.67,000/-. It is to be noted that the proceedings dated 30.01.2006, categorically states that the said plot was allotted to the petitioner under 50%category and at that time the authorities requested the petitioner to pay a sum of Rs.67,000/- towards difference of the 50%of tentative cost of the plot within 30 days and the same was acknowledged by the petitioner on 03.09.2001. But, the petitioner failed to pay 50%difference of the tentative cost. Three notices were issued on 26.04.2004, 07.08.2004 and 25.01.2005, to pay the said amount, but there was

no response from the petitioner. Thereafter, two demand drafts for Rs.67,000/- were submitted by the petitioner, but the same were returned, as the payment was made with a delay. It is also to be noted that though the petitioner was requested to pay the amount of Rs.67,000/- by the end of September, 2001 and inspite of issuing several reminders in the form of notices, cautioning him that the allotment would be cancelled, if the amount is not paid on or before 15.02.2005, the petitioner submitted demand drafts in the month of December, 2005 i.e., with an abnormal delay.

5. From the above, it is clear that inspite of giving ample opportunities, the petitioner failed to pay the amount within the time and hence the allotment of the plot made to the petitioner was cancelled and thereafter the same was allotted to the second respondent, who took possession of the same, after following necessary requirements. As the petitioner failed to comply with the requirements, an auction came to be conducted in respect of the plot in dispute and the second respondent, who was declared as successful bidder, was allotted the said plot. In the absence of any earlier interim orders by this Court, the question of directing the respondents to cancel the allotment made by to the second respondent, cannot be accepted. It is also necessary to mention herein that as per Rule 14 of the A.P.Housing Board (Allotment of Plots) Rules, 1977, if the allottee fails to pay the down payment and/or fails to execute the agreement within the prescribed period, the allotment would be cancelled and the EMD would be

fortified. The time for payment and also for execution of the agreement may be extended at the discretion of the APHB. Since the petitioner failed to pay the down payment amounts within the prescribed time, the allotment made to him stood cancelled.

6. In view of the above, this Court is of the view that there is no illegality in the order passed by the respondents and the writ petition is accordingly dismissed. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions pending if any in this Writ Petition, shall stand closed.

13.09.2017
vnb



C. PRAVEEN KUMAR, J