

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.20760 of 2014

ORDER:

This Writ Petition is filed for the following relief:

“... to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in passing the cancellation of allotment of house bearing No.EWS.No.76 at Madhuban Residential Complex, situated at Kattedan, R.R.District, vide proceedings No.3045/MRC/EMU/HUDA/86 dated 05.06.2000 without considering the petitioner representations dated 25.02.2010, 28.12.2010 and 24.03.2011 for registration of the said house in the petitioner's favour even after collecting entire amount as being illegal, arbitrary, unconstitutional, and in violation of principles of natural justice and consequently set aside the proceedings No.3045/MRC/EMU/HUDA/86 dated 05.06.2000 and direct the 2nd respondent to register the house i.e., EWS No.76, Madhuban Residential Complex, Kattedan, R.R.District, in favour of the petitioner and to pass such other order or orders as this Hon'ble Court may deem fit just and proper in the circumstances of the case.”

The main crux of the writ affidavit is that the petitioner was allotted an independent house with a house No.EWS 76, situated in Madhuban Residential Complex, Kattedan, R.R. District, vide its order No.4/A2/EMU/HUDA/81, dated 05.01.1985 issued by the 2nd respondent. It is submitted that as per the terms and conditions of the said allotment, she had to pay 72 quarterly installments i.e., first two quarterly installments @ Rs.145.90 paise and remaining installments @ Rs.255/- per quarter and the final cost of the house is Rs.14,000/-; accordingly, she had paid a sum of Rs.15,000/- vide Challan No.2638, dated 01.01.2001, Rs.10,000/- vide Challan No.16510, dated 06.11.2006, Rs.8,500/- vide Challan No.17084 dated 13.11.2006, as such, as per her

account record, in total she has paid an amount of Rs.35,000/-, which was in excess of the contractual amount i.e., Rs.14,000/- as per the scheme. It is further submitted that though she had paid the amount as per the existing terms and conditions, on 06.02.2010 the 2nd respondent came to her house and in a high handed manner tried to demolish the said house and taken away the doors of her house without any prior notice / intimation. Therefore, aggrieved by the same, she filed W.P.No.3137 of 2010, in which 2nd respondent has filed a counter affidavit stating that the allotment made to her was cancelled vide order No.3045/MRC/EMU/H/86, dated 06.05.1999. However, the said cancellation of allotment order was neither served on her nor intimated to her at any point of time. Hence, the present writ petition.

A counter affidavit has been filed mainly contending that the petitioner was defaulted to pay the installments, as such, show cause notices dated 29.03.1994 and 06.05.1999 were issued to pay Rs.4814.20 ps., and Rs. 7149/- respectively, but the said dues were not paid, therefore, the allotment was cancelled vide office order dated 06.05.1999. It is further submitted that in order to give an opportunity to the defaulters, a Notification was published in "Eenadu" on 02.02.2000 directing them to clear the dues on or before 29.02.2000, however, the petitioner neither paid the due amount nor responded to the notification. Therefore, vide office Proc.No.3045/MRC/86, dated 05.06.2000 the petitioner's allotment was finally cancelled and forfeited the payments paid by the petitioner and also directed the site officer to take over the physical possession of the subject house. It is further contended

that though the petitioner had remitted Rs.15,000/- on 01.01.2001; Rs.10,000/- on 06.11.2006 and Rs.8,500/- on 13.11.2006 in the bank, towards the cost of house voluntarily, the same was not within the knowledge of the respondent and that too the said remittances were after issuance of final cancellation of allotment of house on 05.06.2000. It is further contended that though the petitioner filed W.P.No.3137 of 2010 and initially obtained status quo orders, finally the said Writ Petition was dismissed on 28.07.2014. Hence, prayed for dismissal of the Writ Petition.

As can be seen from the material placed on record, there is no dispute that the petitioner was chosen as a beneficiary under hire purchase scheme and petitioner had also paid all the installments, which are due and payable, by 13.11.2006. It is also not in dispute that the petitioner has also been put in possession of the subject property, having delivered the same on 05.01.1985.

In the counter affidavit what has been stated is that the allotment in favour of the petitioner has been cancelled after giving a paper notification on 02.02.2000 for alleged non-payment of the dues and as the petitioner had not paid the dues the cancellation is effected, is the stand of the respondent. However as stated supra the respondent had accepted the payments of Rs.15,000/- vide Challan No.2638, dated 01.01.2001, Rs.10,000/- vide Challan No.16510, dated 06.11.2006, Rs.8,500/- vide Challan No.17084 dated 13.11.2006. Inasmuch as, the respondent had accepted the amounts due, the default, if any, deems to have been condoned. In the circumstances and coupled with the fact that the petitioner was already delivered with the possession of the subject property,

the petitioner would be entitled to obtain a legal title to the property, which has been purchased by the petitioner under hire purchase scheme. In the facts of the present case, there shall be a direction to the 2nd respondent to ensure the proper legal document is to be executed in favour of the petitioner, to enable the petitioner to enjoy the property as a legal owner, within a period of six weeks from the date of receipt of a copy of this order.

Accordingly, this Writ Petition is disposed of. No costs. Consequently, the Miscellaneous Petitions, if any pending, shall stand closed.

Date:13.02.2017
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CHALLA KODANDA RAM, J

