

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.12.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.26239 of 2005
and
W.M.P.No.28682 of 2005
&
W.M.P.No.17853 of 2006

H.Ummal Farook

..Petitioner

vs

1.The Managing Director,
Tamilnadu Housing Board,
Nandanam,
Chennai - 600 035.

2.The Executive Engineer,
Administrative Officer,
K.K.Nagar, Division,
Tamil Nadu Housing Board,
Ashok Nagar complex,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to execute a sale deed in favour of the petitioner for the flat bearing No.13/6 HIG I-type, Sector - II, First floor at Madhuravoyal, Chennai.

For Petitioner : Mr.E.Martin Jeyakumar
For Respondents : Mr.V.Anandhamoorthy

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O R D E R

The relief sought for in the writ petition is for a direction to direct the respondent Board to execute the sale deed in favour of the writ petitioner for the flat bearing No.13/6 HIG I-type, Sector - II, First floor at Madhuravoyal, Chennai.

2. The petitioner states that he had been allotted a flat

bearing No.13/6 HIG I-type, Sector - II, First floor at Madhuravoyal, scheme vide letter dated 17.07.1993. The firm cost intimated to the petitioner was at Rs.2,12,200/- and an initial payment of Rs.97,100/- had been paid by the petitioner at the time of allotment and the balance amount has to be paid by way of installments. The grievance of the writ petitioner is that he made the subsequent payments in favour of the respondent Board and till today, the sale deed has not been executed in his favour. Therefore, the petitioner is constrained to move the present writ petition.

3. The amount already paid by the writ petitioner has been tabulated in para 19 of the affidavit filed in support of the writ petitioner. According to the tabulation, the petitioner had paid a total amount of Rs.2,63,378/-.

4. The learned counsel for the respondents has also stated that the petitioner was allotted with flat as per his application. However, the petitioner has not paid the dues as per the schedule and he is a defaulter. Thus, the respondent Board is not in a position to execute the sale deed in favour of the writ petitioner. The statement of accounts furnished by the respondent which is enclosed at page 17 of the typed set of papers filed by the respondents shows that the writ petitioner has to pay the dues and therefore, the respondents are not in a position to complete the sale as per the terms and conditions stipulated in the allotment order.

5. It is further stated that the letter dated 24.05.1997 communicated to the allottee informed that the balance cost of Rs.2,12,200/- is to be paid instead of Rs.2,30,280/- as mentioned in the counter affidavit. It is further pointed out that the writ petitioner has not paid the lump sum balance amount of Rs.75,000/- at once, as stated in petition. At the outset, it is contended that the petitioner has to pay the balance amount due to the respondent Board and in the event of paying the entire dues and arrears, the respondent would be in a position to execute the sale deed in favour of the writ petitioner.

6. Considering the rival submissions of the respective parties to the lis on hand, this Court is of the opinion that the writ petitioner is liable to pay the balance cost as per the demand made by the respondent Board and as per the terms and conditions of the allotment made in his favour. The writ petitioner is unable to establish that there are no dues. Contrarily, the respondents have submitted the statement of accounts showing that the writ petitioner has to pay the balance amount. Under these circumstances, this Court can not adjudicate the statement of accounts produced by the petitioner as well as the respondents. The statements are to be finalized

by the respective parties by producing the original documents, original Wills etc.,

7. Thus, the writ petitioner is permitted to submit an application with all the payment details along with the original bills and other statement of accounts to the respondent Board and in the event of submitting the said application along with the details and documents, the respondents shall verify the payment details made by the writ petitioner and if any dues are to be paid, the same would be intimated to the writ petitioner and in the event of paying the entire dues as per terms and conditions, the respondents shall execute the sale deed in favour of the writ petitioner.

8. With the above observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director,
Tamilnadu Housing Board,
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Chennai - 600 035.

2.The Executive Engineer,
Administrative Officer,
K.K.Nagar, Division,
Tamil Nadu Housing Board,
Ashok Nagar complex,
Chennai.

+1cc to Mr.V.Anandhamurthy, Advocate, S.R.No.86343

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SR(CO)
GSP(11/01/2019)