

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.12383 of 2016

and

W.M.P.Nos.10178 and 10719 of 2016

Mrs.Indira Bhat

..Petitioner

vs

- 1.The Chief Executive Officer,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

..Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for records relating to first respondent's proceedings made in Lr.No.AL1/158/2016 dated 01.03.2016, to quash the same.

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mr.P.Tamilmani
Standing Counsel

ORDER

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents and perused the materials available on record.

2. This petition has been filed challenging the order of the first respondent dated 01.03.2016, in and by which, the allotment made in favour of the petitioner was cancelled.

3. The case of the petitioner is that she is running a Nursery School in the name of Shri Jothi Bhrama Mission at Maraimalai Nagar. Originally the respondents allotted 4.5 grounds in Block No.18, NH-1 in favour of her husband Dr.D.N.Bhat, by a letter dated 19.07.1988. Subsequent to his

demise, the allotment was transferred in the name of the petitioner and they also executed a sale deed for Block No.18.

4. The further the case of the petitioner is that for expansion of the School, vacant land in Block No.26 in NH-1 was allotted in favour of the petitioner's husband. Initially, Rs.1,00,000/- was paid towards sale consideration and the balance consideration of Rs.8,18,500/- was paid on 13.03.2009. However, the respondents have not executed sale deed in favour of the petitioner for plot No.26, despite repeated reminders. Eventually, the allotment was cancelled without providing any opportunity to the petitioner on the ground that each individual is entitled for only one plot.

5. In the counter affidavit filed by the respondents, it is stated that the petitioner's husband Dr.D.N.Bhat, was originally running the School at Maraimalai Nagar. He sought for allotment of plot for extension of the School, for which allotment committee has decided to allot a land to an extent of 4.5 grounds in Block No.18. Subsequently, based on his request for allotment of change of plot, plot in Block No.26 was allotted. But the petitioner's husband again requested for re-allotment of Block No.18 as Block No.26 was very congested and narrow. In response to that, the Block No.18 was again confirmed in favour of the petitioner through a letter dated 19.05.1994.

6. It is further stated that after confirming the allotment of plot No.18, the petitioner's husband was asked to surrender all the original documents pertaining to the site in Block No.26, by a letter dated 30.05.1994 stating that once an alternative plot is allotted, the earlier allotment would automatically be cancelled.

7. In the instant case, it is not in dispute that the respondent had originally allotted the land in Block No.18 and on the request of the petitioner's husband, land in Block No.26 was allotted in his favour. It is not in dispute that the petitioner had remitted the entire sale consideration for both the block Nos.18 and 26 and she has been running the School for a long number of years.

8. The impugned order is assailed mainly contending that eventhough entire consideration for block No.26 had been paid as early as 13.03.2009, the allotment came to be cancelled after lapse of eight years without any notice and affording opportunity to the petitioner.

9. Considering the facts and circumstances of the case and the grievance expressed by the petitioner, in my considered opinion the respondents ought to have provided an opportunity

before passing the impugned order. Since the order has been passed in violation of the principles of natural justice, the same is liable to be set aside. Accordingly, it is set aside and the matter is remitted back to the first respondent to pass an order afresh after affording ample opportunity to the petitioner in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsa/pvs

To

- 1.The Chief Executive Officer,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
- 2.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to Mr.P.Tamilmani, Advocate sr.no.42419
+1cc to Mr.L.Chandrakumar, Advocate sr.no.41521

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W.P.No.12383 of 2016

svn(co)
nr 18/07/2018

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