

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.28920 of 2011
and M.P.No.2 of 2011

P.Subramani

.. Petitioner

Vs

1.The Chairman/Managing Director
Tamil Nadu Slum Clearance Board
Kamarajar Salai,
Chennai-600 005

2.The Estate Officer
Tamil Nadu Slum Clearance Board
Estate Office-3
Anna Nagar, Chennai-40

..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records in the proceedings of the 1st respondent in Na.Ka.No.G3/13840/09 dated 11.07.2011, quash the same and consequently direct the respondents to register the sale deed with respect to Flat MIG No.13, NVN Nagar, 1st street, Thirumangalam, Anna Nagar West, Chennai-40 in the name of the Petitioner.

For Petitioner : Mr.M.L.Ramesh

For Respondents : Mr.R.Sivakumar

ORDER

The Prayer in the Writ Petition is to issue a Writ of Certiorarified Mandamus, to call for the records in the proceedings of the 1st respondent in Na.Ka.No.G3/13840/09 dated 11.07.2011 and to quash the same and consequently direct the respondents to register the sale deed with respect to Flat MIG No.13, NVN Nagar, 1st street, Thirumangalam, Anna Nagar West, Chennai-40 in the name of the Petitioner.

2. According to the Petitioner, the respondent Board has allotted flat under "lease cum sale agreement" in respect of MIG Flat No.13, NVN Nagar, 1st Street, Thirumangalam, by proceedings in Na.Ka.No.G3/24584/98 dated 21.08.1998 on condition that sale consideration amount of Rs.5,20,200/- to be paid by 15 year installments, a sum of Rs.5,605/- per month. According to the Petitioner, the Petitioner has paid the installment amount to the respondent and the receipt was also duly acknowledged. It is averred by the Petitioner that he has paid a sum of Rs.1,81,000/- as on 07.09.2006 towards sale consideration and made a representation to the 1st respondent on 21.01.2009 requesting the Board to register sale deed in his favour. However, the 1st respondent has passed the impugned order directing the Petitioner to pay the Penalty amount of Rs.1,41,212/-.

3. Challenging the said order, the petitioner has come forward with the present Writ Petition.

4. The learned counsel for the Petitioner submits that the Petitioner had been regularly paying the monthly installments and requested the 1st respondent to furnish the statement of account and to register the sale deed for the allotted of plot in his name. However, the 1st respondent without furnishing the statement of accounts or registering the sale deed, passed the impugned order by imposing penalty.

5. The learned counsel for the respondent Board would submit that the Petitioner has not paid the instalment amount regularly, hence, interest is liable to be paid by the Petitioner to the respondent Board. The learned counsel for the respondent has admitted that the Petitioner made a representation on 21.01.2009 requesting the Board to execute the sale deed in his favour. While considering the said request, on verification of records, the impugned order was passed by the 1st respondent on 11.07.2011, directing the Petitioner to pay the delayed payment of interest amount till that date. He further submits that there was default in the payment of installments amount by the Petitioner and therefore, only on payment of the penalty amount, the sale deed can be executed in favour of the Petitioner.

6. A perusal of the above submissions made by both parties, it is seen that the Petitioner has paid a sum of Rs.1,81,000/- towards sale consideration on 07.09.2006 to the respondent Board. The Petitioner made a representation dated 21.01.2009 to the respondent Board requesting to execute the sale deed in his favour. Accordingly, the 1st respondent has passed the impugned order on 11.07.2011 by directing the petitioner to pay the Balance amount including penalty amount of Rs.1,41,812/-. This

according to the Petitioner is illegal, as the 1st respondent by the order impugned, calculated interest amount for the period of two years i.e., from the date of representation made by the Petitioner viz., from 21.01.2009 to 11.07.2011.

7. It is an admitted fact that the petitioner paid a sum of Rs.1,81,000/- under receipt No.182449 i.e., the entire amount of sale consideration according to the Petitioner had been paid as on 07.09.2006. But the Petitioner has approached the 1st respondent only on 21.01.2009. The 1st respondent also has not passed orders on the said representation immediately, but chosen to pass orders only on 11.07.2011 i.e., 2 years and 5 months, after the date of representation made by the Petitioner. There is no justification or explanation on the side of the respondents for calculating the interest for the period from 2009 to 2011.

8. On the last hearing, this court directed the respondent Board to revise the calculation and file a memo and also to serve a copy to the other side. Accordingly, the Respondent-Board has filed a memo by recalculating the interest amount on the delayed payment and arrived at Rs.1,07,877/- till January 2009. The said calculation memo is received by the Petitioner counsel and the same is not disputed by him.

9. Taking into consideration the revised calculation memo produced before this court, the Petitioner is directed to pay the said recalculated amount towards balance dues viz., Rs.1,07,877/- and also incidental charges, if any, within a period of six weeks from the date of receipt of a copy of this order. On receipt of the said amount i.e, Rs.1,07,877/- and other incidental charges, if any to be paid, the Respondent-Board shall execute the sale deed in favour of the Petitioner within eight weeks thereafter.

10. In fine, the Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Chairman/Managing Director
Tamil Nadu Slum Clearance Board
Kamarajar Salai,
Chennai-600 005

2.The Estate Officer
Tamil Nadu Slum Clearance Board
Estate Office-3
Anna Nagar, Chennai-40.

+1 cc to M/s.M.L.Ramesh, Advocate Sr.No.83865

W.P.No.28920 of 2011

AK(CO)
CSL/11.01.2019



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