

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WP.No.758 of 2011
and
MP.No.2 of 2011

P.Mohandass

...Petitioner

Vs

1.The Secretary to Government, Housing and
Urban Development Department, Chennai-9

2.The Chairman and Managing Director,
Tamil Nadu Housing Board, Chennai-35

3.The Executive Engineer and Administrative Officer
Hosur Tamil Nadu Housing Unit, Bagalur
Hosur

...Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in Letter No.HR-7/4382/2003, dated 26.02.2010 and notification dated 18.2.2010 published in "Daily Thanthi" in respect of S.No.1 is concern of the 3rd Respondent and to quash the same and consequently to direct the 3rd Respondent to restore the order of allotment, dated 25.07.2003 in Letter No.HR.9/04382/2003 in favour of the Petitioner.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.M.Karthikeyan, AGP-R1
Mr.V.Anandhamoorthy, SC-RR2 and 3

ORDER

The prayer in this Writ Petition is to quash the proceedings of the 3rd Respondent, dated 26.02.2010 and the notification dated, 18.12.2010 and consequently, to direct the 3rd Respondent to restore the order of allotment, dated 25.07.2003.

2. This Court heard the learned counsel on either side and also perused the materials placed on record.

3. According to the learned counsel for the Petitioner, the Petitioner was allotted HIT-I Plot No.12 in Phase XV to an extent of 381.60 sq.m Hosur Neighbourhood Scheme, by proceedings dated 25.07.2003 of the 3rd Respondent and he had paid instalments up to 2004 and thereafter, he could not pay due to financial crisis. Thereafter, by proceedings dated 01.04.2008, the 3rd Respondent had cancelled the said allotment. However, on the representation of the Petitioner, the 3rd Respondent directed, by order dated 20.10.2009, the Petitioner to pay a sum of Rs.4,71,356/- within a period of 60 days to restore the allotment. However, the Petitioner was unable to pay the said amount. Thereafter, by the impugned proceedings, dated 26.02.2010, the allotment was cancelled by the 3rd Respondent and consequently, by notification dated 18.12.2010, the 3rd Respondent invited applications for allotment of new balance vacant LIG/MIG/HIG Plots, which included the plot allotted the Petitioner earlier. Hence, this Writ Petition has been filed, seeking the reliefs as stated above.

4. On an earlier occasion, when the matter came up before this Court, this Court had directed the Respondent Board to file a calculation memo and to furnish a copy of the same to the Petitioner, so as to enable him to settle the entire amount due to the Respondent Board. Accordingly, a calculation memo, dated 30.11.2018, calculating up to 30.11.2018, has been filed by the Respondent Board and a copy of the same has also been given to the learned counsel for the Petitioner.

5. The learned counsel for the Petitioner has agreed to settle entire amount, as per the said calculation memo, to the Respondent Board in two instalments.

6. The learned standing counsel for the Respondent Board would submit that the Petitioner committed default in paying instalments and hence, the allotment was cancelled, but however, the Petitioner may be directed to pay the entire outstanding amount to show his bona fide within a specified time and in such event, the case of the Petitioner would be considered, in accordance with law.

7. It is seen that the impugned notification issued by the Respondent Board to sell the Plot in question through public auction has now become infructuous. Therefore, in the light of the submissions of the learned counsel on either side and the aforesaid facts and circumstances of the case, this Writ Petition is disposed of, with the following directions:-

- i. The Petitioner shall pay the total outstanding amount, as per the calculation memo, dated 30.11.2018, to the Respondent Board in two instalments as follows:-

- a) The Petitioner shall pay a sum of Rs.5,00,000/- (Rupees five lakhs only), being the first instalment, to the Respondent Board, within a period of two weeks, from the date of receipt of a copy of this order.
- b) Thereafter, the Petitioner shall pay the entire balance amount, being the second and final instalment, to the Respondent Board, as per the calculation memo, within a period of six weeks thereafter.

ii).If there is any default in making payment as stated above, on the part of the Petitioner, the Respondents are at liberty to proceed further to sell the property in question, in accordance with law, without any further reference to this Court.

No costs. Consequently, the connected MP is closed.

Srcm

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government, Housing and
Urban Development Department, Chennai-9

2.The Chairman and Managing Director,
Tamil Nadu Housing Board, Chennai-35

3.The Executive Engineer and Administrative Officer
Hosur Tamil Nadu Housing Unit, Bagalur
Hosur

+1cc to M/s.V.Anandhamurthy, Advocate, S.R.No.83254

+1cc to the Government Pleader, S.R.No.83987.

WP.No.758 of 2011

kak(05/01/2019)