

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2018

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.No.4517 of 2013
and
M.P.No.2 of 2013

S.Ravichandiran

... Petitioner

Vs

1.The Executive Engineer & Administrative Officer,
Vellore Housing Unit,
Tamil Nadu Housing Board,
Sathuachari, Vellore - 632 009.

2.The Manager (Sales & Service)
Vellore Housing Unit, Part-1,
Tamil Nadu Housing Board,
Sathuvachari, Vellore - 632 009.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent pertaining to his proceedings in letter No.A1 dated Nil. October, 2012 demanding a sum of Rs.1,63,991/- and quash the same as invalid and illegal and consequently direct the second respondent to execute the Sale Deed in favour of this petitioner in respect of House No.714 (LIG Category).

For Petitioner : Mr.S.Srinivasa Narayanan

For Respondents : Mr.V.Anandhamurthy
1 and 2

O R D E R

The order of the year 2012, issued by the 2nd respondent, demanding a sum of Rs.1,63,991/-, is under challenge in this writ petition and a further direction is sought to direct the 2nd respondent to execute the sale deed in respect of the writ petitioner.

2.The writ petitioner claims that the respondents allotted him a house bearing No.714 (LIG Category) at Thirupattur Phase-II and fixed the tentative cost for Rs.37,100/- and a further sum of Rs.13,100/- to be paid towards initial deposit within 21 days from the date of the order of allotment.

3.The learned counsel for the writ petitioner as well as the respondents brought to the notice of this Court that all the issues raised in the present writ petition had been adjudicated in a batch of writ petitions by this Court in W.P.No.18545 of 2013 on 11.02.2015, the operative portion of which is extracted hereunder :

'5. After hearing the learned counsel for the parties and perusing the materials, it is seen that the issue involved in these writ petitions are squarely covered by the decision of the Honourable Supreme Court in the case of Tamilnadu Housing Board Vs. Service Society, (2011) 11 SCC 13.

6. Learned counsel appearing for the respondent Board, on instructions submitted that the issue is squarely covered by the said decision. In fact, this Court has followed the said decision in W.P.No.13509 to 13514 of 2011 and also take note of another decision in the case of K. Usharani Vs. State of Tamilnadu, represented by its Secretary to Government, Housing Unit and Urban development Department and others in W.P.No.13243 of 2013 etc. batch dated 8.1.2014 and set aside the demand and allowed the writ petition giving certain directions.

7. The order passed by this Court in W.P.No.13509 to 13514 of 2011 dated 26.3.2014 reads as follows;

'2. It is submitted by the learned counsel on either side that the issue involved in these writ petitions is squarely covered by the decision of this Court in the case of K.Usharani vs. State of Tamil Nadu, rep. By its Secretary to Government, Housing Unit & Urban Development Dept. and others rendered in W.P.No.13243 of 2013 etc. batch dated 08.01.2014.

3. In the said batch of cases, an identical issue arose, though the prayer sought for in those batch of writ petitions were slightly different. The petitioners therein sought for a direction to issue sale deed by

collecting only the enhanced compensation fixed by the Hon'ble Apex Court paid to the original land owners. It appears that this issue has arisen throughout the State of Tamil Nadu. This Court, after considering the contentions raised on both sides, following the decision of the Hon'ble Supreme Court in the case of T.N. Housing Board v. Service Society, (2011) 11 SCC 13, has held as follows:-

"21. The Tamil Nadu Housing Board appears to have calculated the balance amount payable by the petitioners taking into account the Government Order in G.O.Ms.215 Housing & Urban Development Department dated 28 September 2012. Though a reference was made to the difference in land cost, there was no indication about the enhancement made by the Reference Court with modification if any, made by the Appellate Court, interest paid to the land owners and other relevant details so as to enable the allottees, to have an idea with regard to each of the components. In case the reference proceedings are pending under Section 18 of the Land Acquisition Act, either before the Reference Court or Appellate Court, calculation must be made by taking into account the maximum amount claimed by the landowners. The allottees would be benefited in case the land cost along with statutory interest is deposited early, as otherwise, they are liable for interest after the conclusion of Section 18 proceedings.

22. The Tamil Nadu Housing Board is permitted to collect the differential cost and statutory interest in accordance with the judgment in Service Society.

23. In the result, the impugned notices are all set aside. The concerned division is directed to prepare a statement of cost indicating the development cost and land cost and statutory interest in the light of the judgment in Service Society. The notice calling upon the allottees to pay the balance amount must accompany a copy of the statement of cost. In case petitioners have made payments pursuant to the impugned notices, such payments

shall be given due credit. The petitioners should be given reasonable time to pay the balance amount after service of notice.

24. The writ petitions are allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed". In the light of the above order, these writ petitions can also be disposed of on the same lines.

4. Accordingly, the impugned notices are set aside. The 2nd respondent is directed to prepare a statement of cost indicating the development cost and land cost and statutory interest in the light of the decision of the Hon'ble Supreme Court in the case of Service Society (supra). The notice calling upon the petitioners to pay the balance amount must accompany a copy of the statement of cost and in case the petitioners have made payments pursuant to the impugned notices, such payments shall be given due credit and the petitioners shall be given reasonable time to pay the balance amount after service of notice.'

8. Following the above order, these Writ Petitions are allowed and the impugned notices are quashed. The respondents 2 and 3 are directed to prepare a statement of cost indicating the development cost and land cost and statutory interest in the light of the decision of the Honourable Supreme Court in the case of Service Society (supra). The notice calling upon the petitioners to pay the balance amount must accompany a copy of the statement of costs and in case, the petitioners have made payments pursuant to the impugned notices, such payments shall be given due credit and the petitioners shall be given reasonable time to pay the balance amount after service of notice.

9. With the above directions, the writ petitions are allowed. No costs. Connected Miscellaneous Petitions, if any, are closed.'

4. Today, Mr. R. Ravichandran, Executive Engineer & Administrative Officer, Tamil Nadu Housing Board, Vellore Housing Unit, Vellore, appeared before this Court, along with the files and assisted the learned counsel for the respondents.

5.It is brought to the notice of this Court that subsequently, the Government issued G.O.(Ms).No.104, Housing and Urban Development Department, dated 15.06.2017, granting waiver of penal interest. The time limit granted in the said Government Order was extended by the Tamil Nadu Housing Board, in their memo dated 13.08.2018. Thus, the said benefits shall be granted to the writ petitioner in accordance with the terms and conditions stipulated in the Government Order cited supra.

In this view of the matter, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS v)

//True Copy//

Sub Assistant Registrar

mkn

To

- 1.The Executive Engineer & Administrative Officer,
Vellore Housing Unit,
Tamil Nadu Housing Board,
Sathuvachari, Vellore - 632 009.
- 2.The Manager (Sales & Service)
Vellore Housing Unit, Part-1,
Tamil Nadu Housing Board,
Sathuvachari, Vellore - 632 009.

+1cc to Mr.S.Srinivasa Narayanan , Advocate SR.No. 74477

+1cc to Mr.V.Anandhamurthy , Advocate SR.No. 74236

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W.P.No.4517 of 2013 and
M.P.No.2 of 2013

ASK(26/11/2018)