

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.A.NOS.2619 TO 2634 OF 2010
AND M.P NOS.1 & 2 OF 2010(16 Nos. EACH)

1. The Chairman and Managing Director,
Tamil Nadu Housing Board, (TNHB)
493, Anna Salai, Nandanam,
Chennai-600 035.
2. The Executive Engineer,
Administrative Officer,
Tamil Nadu Housing Board,
Coimbatore Housing Unit (CHU),
Hudco Colony, Tatabad,
Coimbatore-641 012. Appellants/Respondents
(in all W.A)

Vs.

WING COMMANDER S.BALAKRISHNAN ... RESPONDENT in WA.No.2619 of 2010
DR.A.CORNELIUS MANOHARAN ... RESPONDENT in WA.No.2620 of 2010
MR.D.NARAYANAN ... RESPONDENT in WA No.2621 of 2010
MR.K.A.MARRIMUTHU ... RESPONDENT in WA No.2622 of 2010
MR.K.RAGHAVAN ... RESPONDENT in WA No.2623 of 2010
MR.S.G.VADIVELU ... RESPONDENT in WA No.2624 of 2010
WING COMMANDER V.SUBRAMANIAN ... RESPONDENT in WA No.2625 of 2010
T.SAM VICTOR ... RESPONDENT in WA No.2626 of 2010
MR.K.ETHIRAJAN ... RESPONDENT in WA No.2627 of 2010
MR.K.M.NITHYANANTHAM ... RESPONDENT in WA No.2628 of 2010

MR.D.KRISHNAMURTHY ... RESPONDENT in WA No.2629 of 2010
V.VENKATARAMANI ... RESPONDENT in WA No.2630 of 2010
M.RAJANGAM ... RESPONDENT in WA No.2631 of 2010
MR.G.KASIRAMAN ... RESPONDENT in WA No.2632 of 2010
MR.RAJU MOHAN ... RESPONDENT in WA No.2633 of 2010
SHOBINI KUTTI ... RESPONDENT in WA No.2634 of 2010

Respondent/Writ Petitioner

Writ Appeal is preferred under Clause 15 of the Letters Patent against the order dated 11.09.2008 made in W.P.No.32539 to 32543 of 2006, 42508 to 42513 of 2006, 3821 to 3824 of 2007 & 12681 of 2007.

Prayer is W.P.Nos.32539 to 32543 of 2006, 42508 to 42513 of 2006, 3821 to 3824 of 2007 & 12681 of 2007:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records made in the impugned Notice No.A2/14284/88 dated 10.03.2006, A2/13774/88 dated 10.03.2006, A2/14614/88 dated 15.02.2005, A2/14404/88 dated 26.06.2006, A2/14364/88 dated 18.07.2006, A2/14384/88 dated 25.01.2006, A2/14260/88 dated 25.01.2006, A2/15023/88 dated 30.01.2006, A2/14518/88 dated 10.03.2006, A2/6330/91 dated 30.01.2006, A2/14336/88 dated 10.03.2006, impugned Demand Account Abstract Notice Nil dated 22.11.2006, Nil dated 22.11.2006, A2/6164/91 dated 29.03.2006, A2/14261/88 dated 15.11.2005, Nil dated 16.03.2007, respectively of the Second Respondent.

For Appellants : Mr.V.Anandhamoorthy
in all appeals

For Respondents : Mr.K.K.Muralitharan
in all appeals

COMMON JUDGMENT
(Judgment of the Court was made by M.M.SUNDRESH,J.)

When these writ appeals are taken up for hearing, both the learned counsel appearing for the appellants as well as the learned counsel appearing for the contesting respondent would submit that except W.A.Nos.2621, 2622 and 2628 of 2010, all other writ appeals have become infructuous inasmuch as the contesting respondents/writ petitioners have paid the amount

and got the sale deeds. This aforesaid factum has been confirmed by the letter of the second appellant dated 19.06.2018 sent to the learned counsel for the appellants.

2. In view of the payment made and sale deeds executed in favour of the contesting respondents/writ petitioners, the writ appeals in W.A.Nos.2619, 2620, 2623 to 2627 and 2629 to 2634 of 2010 stand dismissed as infructuous. No costs. Consequently, connected miscellaneous petitions are also dismissed.

3. Insofar as W.A.Nos.2621, 2622 and 2628 of 2010 are concerned, the learned counsel appearing for the appellants would submit that what is involved is only the demand and not capitalisation. The very same learned single Judge, after taking note of the decision of the Apex Court in TAMIL NADU HOUSING BOARD V. SERVICE SOCIETY AND ANOTHER ((2011)11 Supreme Court Cases 13) was pleased to hold that in batch of writ petitions in W.P.Nos.13243 of 2013 etc., batch dated 08.03.2014 in the following manner.

"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."

4. The aforesaid factum is not disputed by the learned counsel appearing for the private respondents in W.A.Nos.2621, 2622 and 2628 of 2010.

5. In such view of the matter, insofar as these W.A.Nos.2621, 2622 and 2628 of 2010 are concerned, the order passed by the learned single Judge is set aside and the writ appeals are allowed. Accordingly, these matters stand remitted to the appellant No.II viz., the Executive Engineer and Administrative Officer, Tamil Nadu Housing Board, Coimbatore Housing Unit (CHU), Hudco Colony, Tatabad, Coimbatore-641 012, for appropriate adjudication in terms of paragraphs 21 to 23 of the order extracted above. The entire exercise will have to be done after due notice to the private respondents 2 to 22 within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

raa

To

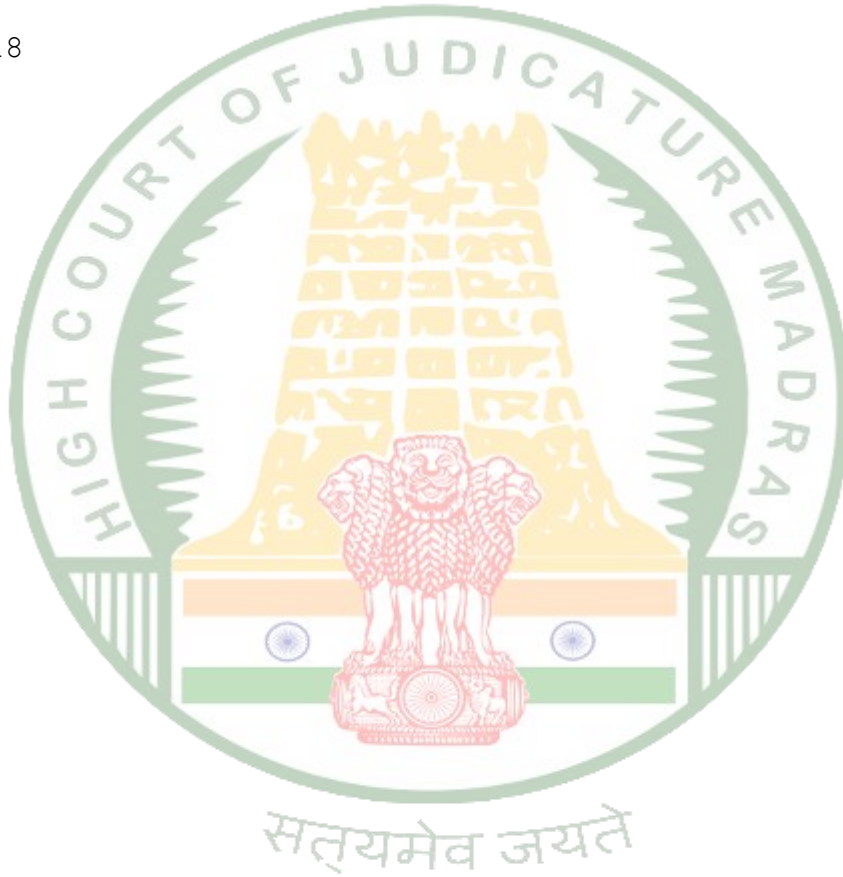
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+16ccs to Mr.V.Anandhamoorthy, Advocate, S.R.No.45895 TO 45898

W.A.Nos.2619 to 2634 of 2010

RV(CO)
CS/29/08/18



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