

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.11791 of 2013 &
M.P.No.2 of 2013

K.Pandy

.. Petitioner

Vs.

1.State of Tamil Nadu,
Represented by its Secretary to Government,
Housing Unit and Urban Development Department,
Fort St. George,
Chennai - 600 009.

2.The Chairman and Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai, Nandanam,
Chennai - 600 035.

3.The Manager Sales and Service,
Tamil Nadu Housing Board,
Vellore Housing Unit - Phase-I,
Sathuvachary,
Vellore & District - 632 009.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned demand letter dated 18.10.2012 issued by the third respondent herein in Letter No.A8/2989/99 and quash the same as illegal and consequently direct the respondents herein to issue a fresh demand notice without fixing exorbitant cost and interest except to fix the enhanced compensation if any paid to the original landowners from whom the land of the petitioner had been acquired for the house allotted to the petitioner in LIG L354-A, to an extent of 1963 sq.ft. at Thamarai Nagar, Thiruvannamalai District within a time frame.

For Petitioner : Mr.P.Jagadeesan for P.Kannan Kumar

For Respondents : Mr.B.Anand

Government Advocate for R1

Mr.V.Anandamurthy

Standing Counsel for R2 and R3

O R D E R

Mr.P.Jagadeesan, learned counsel appearing for the petitioner submitted that the issue involved in this Writ Petition is covered by the decision of this Court in W.P.Nos.13509 to 13514 of 2011, dated 26.03.2014.

2. This Court, in W.P.Nos.13243 of 2013 etc., batch dated 08.01.2014, 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".

Following the earlier order, the learned Single Judge in the above referred W.P.Nos.13509 to 13514 of 2011, set-aside the orders impugned in the writ petitions. In my considered opinion, the order would apply to the case on hand.

3. The learned counsel for the petitioner submitted that the petitioner is entitled for waiver of interest as per Manai No.Odhu 16/8697/2009, dated 12.08.2017. It is further submitted that the Division Bench of this Court in W.A.No.1230 of 2014, directed the Tamil Nadu Housing Board to consider the request for waiver of interest. The relevant paragraph of Division Bench Judgment would run thus:-

"11. We are informed that the Housing Board has announced a waiver scheme to waive interest. The learned Additional Advocate General submitted that allottees in the subject case are also entitled to the benefits of the waiver scheme. According to the learned Additional Advocate General, the interest amount to be waived would be deducted in each case and only the balance amount would be recovered from the allottees."

4. In the light of the above decisions, the impugned notice dated 18.10.2012 is set aside. The second respondent is directed to consider the case of the petitioner and pass orders taking note of the decisions, referred supra.

5. Accordingly, the Writ Petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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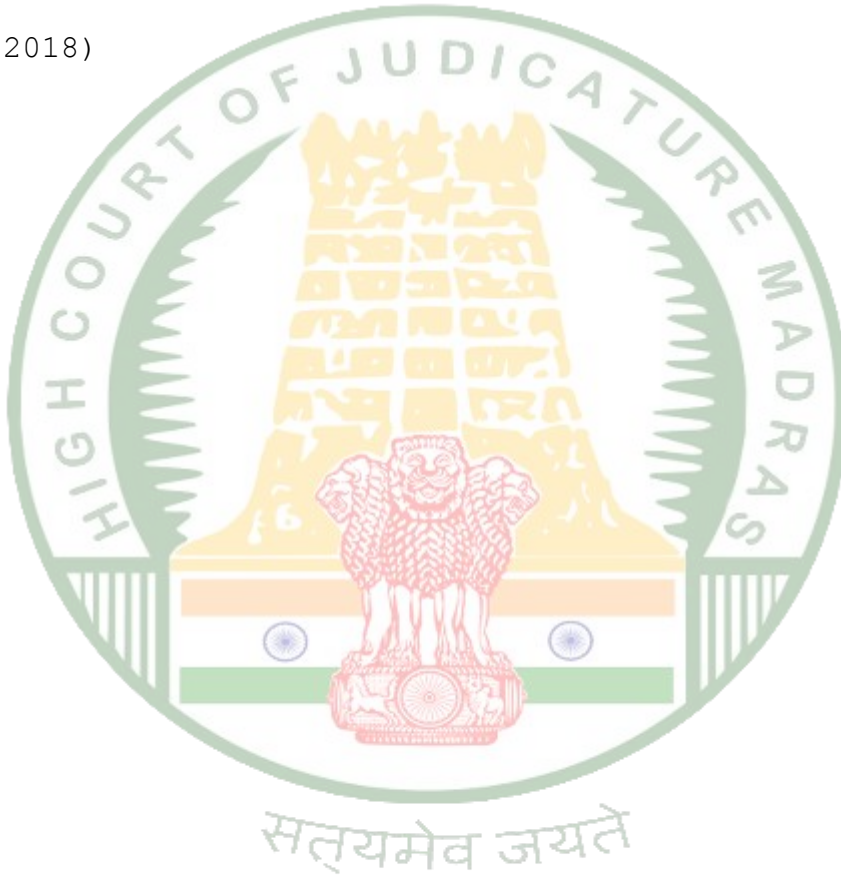
1.The Secretary to Government,
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Chennai - 600 035.

+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.3913
+1cc to Mr.V.Anandha Murthy, Advocate, S.R.No.3960
+1cc to the Government Pleader, S.R.No.4590

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M.P.No.2 of 2013

KAN(CO)
RRK(02/02/2018)



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