

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.12688 of 2013
and
M.P.No.1 of 2013

S.Baskeran

... Petitioner

Vs

1.The Managing Director,
Tamilnadu Housing Board,
Nandanam,
Chennai - 600 035.

2.The Secretary to Government,
Housing and Urban Development Department,
State of Tamil Nadu,
Chennai - 600 009.

...Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, to ensure the allotment of the Plot No.77 in HIG-II Scheme within the Sholinghanallur Scheme or of any other plot with equal specification and measurement of 2 ½ grounds in the said scheme forthwith on the same terms and conditions of the original allotment dated 08.01.2004.

For Petitioner : Mr.V.Manohar

For Respondents : Mr.V.Anandmurthy for R1
Mr.V.Shanmuga Sundar
Special Government Pleader for R2

O R D E R

Heard Mr.V.Manohar, learned counsel for the petitioner, Mr.V.Anandamurthy, learned counsel for the first respondent and Mr.V.Shanmuga Sundar, learned Special Government Pleader appearing for the second respondent and perused the materials available on record.

2. This writ petition has been filed for issuance of a Writ of Mandamus to the respondents to ensure the allotment of Plot HIG-II/77 in Sholinghanallur Scheme or any other Plot with equal specification and measurement of 2 ½ grounds in the said scheme forthwith on the same terms and conditions of the original allotment dated 08.01.2004.

3. The case of the petitioner is that based on his request dated 13.11.2003, the first respondent allotted a HIG Plot No.H1/3, under the Sholinghanallur Housing Scheme vide proceedings 2(D) No.8, Housing and Urban Department, Chennai - 600 009, dated 8.01.2004. He also applied for housing loan for a sum of Rs.2,00,000/-. In the meanwhile, the first respondent came up with the Mugappair-Nolambur scheme and invited applications. On seeing the advertisement, the petitioner submitted a proposal to consider his request and re-allot a Plot in Mugappair-Nolambur instead of a Plot at Sholinghanallur.

4. The petitioner would allege that instead of considering his request, the first respondent has cancelled the allotment with regard to the Sholinghanallur scheme, without due process of law. The said proceedings were challenged by the petitioners before this Court in W.P.No.10839 of 2006 and W.P.No.33858 of 2007. Thereafter, the petitioner has made a request to the respondents, for allotment of Plot HIG-II/77 as early as on 02.04.2007. The second respondent has accepted the proposal and also directed the first respondent to make an alternative allotment to the petitioner and by a letter dated 31.10.2008, the first respondent also confirmed the said proposal. Thereafter, there was no response, despite the representations of the petitioner dated 17.09.2011 and 09.03.2012. Hence, he come up with the present writ petition.

5. The first respondent has filed a counter refuting the allegations of the petitioner and also stated that originally HIG Plot No. H 1/3, Sholinghanallur Scheme was allotted to the petitioner under the Government Discretionary Quota, vide G.O.Ms.2D No.8, Housing and Urban Development Department, dated 08.01.2004. However, due to the failure of paying the initial deposit within a stipulated time, the said allotment was cancelled and it was re-allotted to Tmt.C.Devi, vide G.O.Ms.2D.No.159, dated 11.08.2005. It is further stated that Writ petitions in W.P.Nos.10839 of 2006 and 33858 of 2007 filed by the petitioner were dismissed for non-prosecution on 12.9.2011 and 06.09.2011. Originally Plot No.HIG II/77 was allotted to Tmt.A.Kothainayaki on 28.2.2007. Since she has surrendered the said Plot, the Plot was brought to the Tamil

Nadu Housing Board allotment list on 10.12.2009. It is further stated that the second respondent vide G.O.Ms.No.6, dated 07.01.2011 has abolished the Government Discretionary Quota. Hence, the petitioner cannot seek any relief in this writ petition.

6. It is not in dispute that originally HIG Plot No.H 1/3 in Sholinganallur Scheme was allotted by the Government under Discretionary Quota. The allotment was cancelled, the petitioner has challenged the cancellation order of the first respondent in W.P.Nos.10839 of 2006 and 33858 of 2007 and the writ petitions came to be dismissed on 12.9.2011 and 6.9.2011. It is equally not disputed that allotment of House Sites under Discretionary Quota has been abolished by G.O.Ms.NO.6, dated 07.01.2011. Hence, the contention of the petitioner that the respondent has to allot alternative Plot in Mugappair-Nolambur scheme is without any basis.

7. In the light of the above facts, I am not able to find any valid ground to issue the directions sought for in this writ petition. In fine, the writ petition fails and the same is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ms

To

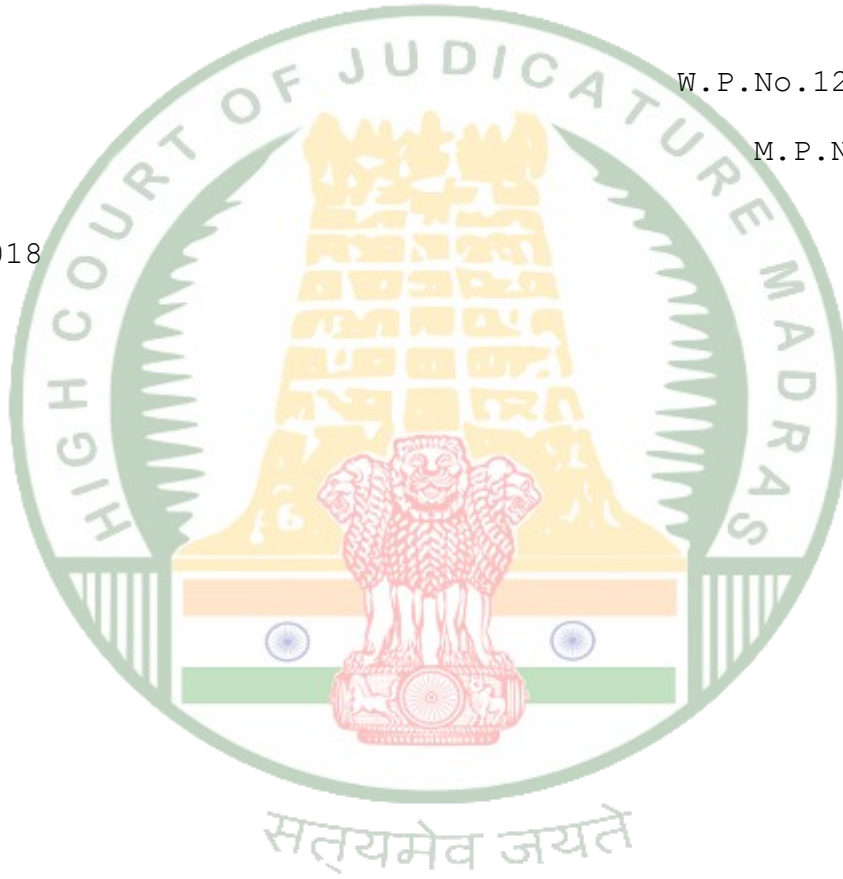
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+1cc to Mr.V.Anandhamurthy, Advocate Sr.48667
+1cc to the Government Pleader Sr.49351

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srg 7/8/2018



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