

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 20.03.2018

Pronounced on: 09.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.13158 of 2013

and M.P.Nos.1 & 2 of 2013

B.Vasudevan

..Petitioner

Versus

1. The Tamilnadu State Housing Board
by its Chairman & Managing Director,
Anna Salai, Nandanam, Chennai - 35.
2. Tmt.Mangaiyarkarasi @ Mangaiyarkarasi,
2/33/ Cannal Bank Road, C.I.T.Nagar,
Chennai - 33.

.. Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the entire records relating to the allotment Letter No.KKNB-7/137/2012, dated 02.02.2012 of the first respondent of Plot No.25A Cannal Bank Road, C.I.T.Nagar, Nandanam, Chennai - 35 and quash the same and directing the first respondent to allot the said plot to the petitioner.

For Petitioner : Mr.D.Nellaiappan

For Respondents : Mr.V.Anandamurthy, for R1
Mr.M.Santhanaraman, for R2

O R D E R

The petitioner prays for issuance of a writ of certiorarified mandamus, challenging the allotment of plot No.25A, Canal Bank Road, CIT Nagar, Nandanam, Chennai in favour of the second respondent and for a direction to the first respondent to allot the said plot in favour of the petitioner.

2. According to the petitioner, he belongs to Adi Dravida Community and on 16.09.2011, he applied for allotment of house site, since it was vacant and available. However, without considering the request of the petitioner, the said plot was allotted in favour of the second respondent. The allotment of the plot made in favour of the second respondent has been assailed by the petitioner on the ground that it is an arbitrary exercise of power and the first respondent has not followed the mandatory provisions, terms and conditions in respect of allotment of house site.

3. The Executive Engineer, Tamil Nadu Housing Board, Chennai has filed a Position Note, stating that the officials have no rights to make allotment of any plot / flat to any individual on his own without observing rules and regulations of the Board. The husband of the second respondent, Mr.Jeeva got allotment of plot No.13, Besant Nagar Extension Phase I, vide G.O.Ms.No.727, dated 05.08.1987. The allotment was unsuccessfully challenged by one Mr.K.Sundaresan in a writ petition. During the pendency of the writ petition, the original allottee passed away and his legal her, the second respondent filed C.C.No.13 of 2009 before the Consumer Forum, Chennai for allotment of alternate plot and succeeded. Hence, the Board passed a resolution No.9.02, dated 30.11.2011 to allot the plot in question to the second respondent.

4. The second respondent has filed a counter affidavit refuting the allegations of the petitioner and stated that the residential plot bearing Plot No.13 in Besant Nagar Extension Phase-I, Thiruvanmyiur was allotted in favour of the second respondent and she paid the entire sale consideration on 02.04.2004. The Housing Board has also executed a sale deed on 05.04.2004, vide Document No.2350 of 2004. However, the first respondent cancelled the sale deed for the purpose of widening the road. Challenging the said cancellation, she preferred a consumer complaint in C.C.No.13 of 2009. The Tamil Nadu State Consumer Disputes Redressal Commission passed an order allotting the plot No.25A, Canal Bank Road, CIT Nagar, Chennai in compensating her for the cancellation of the sale deed and she had paid a sum of Rs.14,79,400/- towards the difference in cost of land.

5. It is further stated that the petitioner has not applied for allotment of residential plot by making proper application and she is seeking remedy on the basis of the letter sent to the Chief Minister's Special Cell and hence she has no locus-standi to challenge the allotment.

6. In the matter on hand, it is an admitted fact that the husband of the second respondent was allotted a residential plot having an extent of 2290 Sq.ft. in Besant Nagar Extension Phase-I and the sale deed was cancelled for widening the 50 feet width road. It is also not in dispute that the cancellation of the sale deed was challenged by the second respondent before the Tamil Nadu State Consumer Disputes Redressal Commission, Chennai in C.C.No.13 of 2009 and in pursuant to the order of the Commission, dated 11.07.2011, the plot in question was allotted to the second respondent and a sale deed was also executed on the payment difference in cost of land i.e., Rs.14,79,400/-.

7. It seems that no advertisement for the sale of the plot in question was issued by the Housing Board and this writ petition has been filed on the basis of the letter sent to the Chief Minister Cell, as rightly pointed out by the second

respondent. The petitioner except making bald allegations that the allotment of the plot in question in favour of the second respondent was arbitrary, illegal, but no materials have been produced to establish the same.

8. For the foregoing reasons, I find no reason to set aside the allotment letter made in favour of the second respondent. In that view, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

pvs

To

The Chairman & Managing Director,
The Tamilnadu State Housing Board,
Anna Salai, Nandanam, Chennai - 35.

+ 1 cc to Mr. D. Nellaiappan, Advocate Sr.54810

+ 1 cc to MR. V. Anandhamurthy, Advocate Sr.55208

W.P.No.13158 of 2013

SPD(CO)
EU(04/09/2018)

सत्यमेव जयते

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