

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.1420 of 2010

A.C.Ramachandran

... Petitioner

Vs

1.The Tamil Nadu Housing Board,
rep.by its Chairman,
Chennai-35.

2.The Executive Engineer &
Administrative Officer,
Tamil Nadu Housing Board,
Hosur Housing Unit,
Hosur - 635 109.

....Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in his proceedings bearing Letter No.R5/5559/06 dated 19.09.2006, quash the same and direct the respondent to pay the sum of Rs.61,000/- paid by the petitioner with interest at 12% p.a from 21.10.1999 till the date of payment.

For Petitioner : Mr.I.Abrar Muhammed Abdullah

For Respondents : Mr.R.Jayaseelan, Standing Counsel

ORDER

Challenging the communication dated 19.09.2006 sent by the second respondent, the petitioner has come up with the present writ petition.

2.The facts of the case as averred in the affidavit filed in support of this writ petition, are as under:

The petitioner made an application seeking allotment of a house at Hosur Housing Unit during the year 1996. By a communication dated 26.11.1997, he has been allotted a house bearing No.110 at Phase IX of the Hosur Housing Unit. Pursuant to the same, he paid a sum of Rs.60,000/- on 06.01.1997 and a sum of Rs.1,000/- on 26.01.1997 to the respondent Board. However, due to his personal problems, he could not take possession of the said house. Therefore, he sent a letter dated 21.10.1999 requesting the respondent Board to cancel the allotment and refund the amount paid by him. However, by the communication impugned herein, the respondent Board informed to

the petitioner that the allotment stood cancelled with forfeiture of the amount as per the existing rules of the Tamil Nadu Housing Board. Hence, this writ petition.

3.Upon notice, the second respondent filed a detailed counter affidavit, wherein, in para 5, it has been averred as follows:

"It is submitted that the petitioner was allotted HIG House No.110 at Phase IX, Hosur on 26.11.1997. The petitioner had paid 1/10 cost of initial deposit (part) Rs.60,000/- vide official receipt No.11020 dated 31.01.1997 and Rs.1000/- vide office receipt no.11077 against initial deposit amount of Rs.64,390/-. He did not remit balance initial deposit and monthly installment thereafter. Subsequently, he was informed to pay the difference in initial deposit, monthly installment, maintenance charges, penal interest and maintenance charges and capital fund amounting to Rs.87,604/- on 01.07.1998. The petitioner had not responded to pay this amount. He had requested in his letter dated 24.9.1999 to cancel the allotment and to return back the amount paid by him. Hence, the allotment was cancelled on 21.10.1999 with forfeiture of amount paid by him as per the Rules/Norms of the Tamil Nadu Housing Board.

4.The learned counsel for the petitioner submitted that the house allotted to the petitioner was subsequently re-allotted to a thirty party, on payment of entire sale consideration by him and hence, the amount paid by the petitioner is to be refunded to him, by the respondent Board.

5.Reiterating the averments stated in the counter affidavit, the learned counsel for the respondents made his submission. However, he sought time to get instructions from the respondents with regard to refund of the amount.

6.Accordingly, when the matter is taken up for hearing, the learned counsel for the respondents, on instructions, submitted that the respondent Board are now agreed to refund the sum of Rs.61,000/- paid by the petitioner, to him, without interest, which the petitioner agreed.

7.Considering the facts and circumstances of the case and having regard to the submissions made on either side, this Court directs the respondents to refund Rs.61,000/- without interest to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
The Tamil Nadu Housing Board,
Chennai-35.

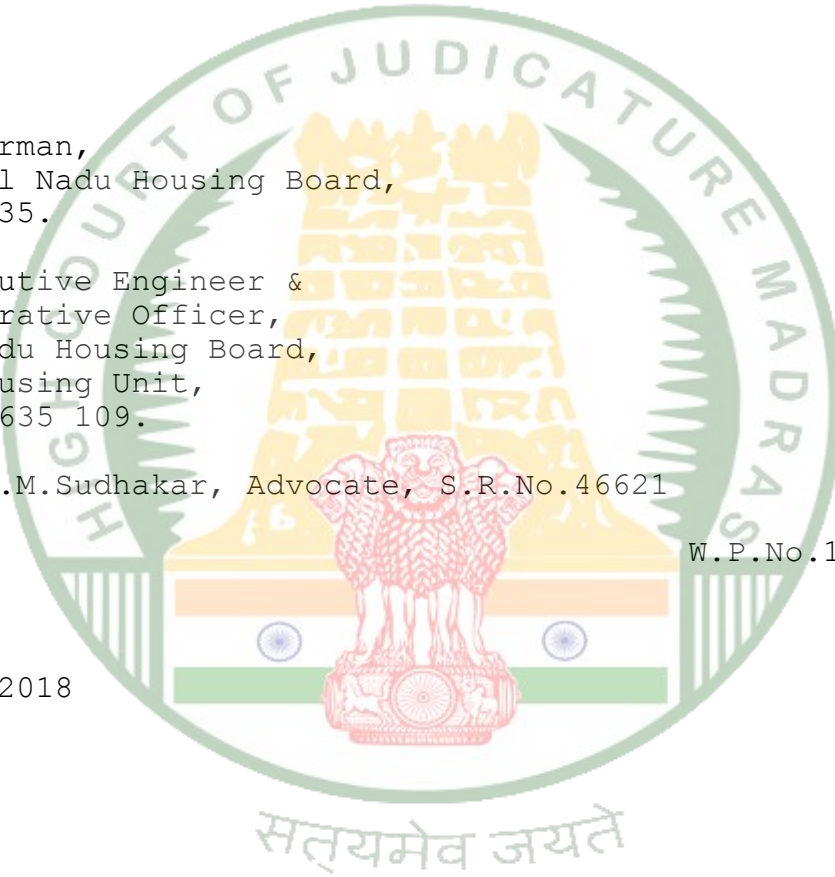
2. The Executive Engineer &
Administrative Officer,
Tamil Nadu Housing Board,
Hosur Housing Unit,
Hosur - 635 109.

+1cc to Mr. M. Sudhakar, Advocate, S.R.No.46621

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RSK (CO)

rrs 15/11/2018



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