

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2018

CORAM

THE HON'BLE TMT.JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.18360 of 2009

A.S.Hasamathullah

... Petitioner

Vs.

1. The State of Tamil Nadu  
Represented by its Secretary,  
Urban Development Department,  
Fort St.George, Chennai 600 009.
2. The Chairman and Managing Director,  
Tamil Nadu Housing Board,  
No.331, Anna Salai,  
Nandanam, Chennai 600 035.
3. The Executive Engineer cum Administrative Officer,  
Tamil Nadu Housing Board,  
Hosur, Krishnagiri District. ... Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to restore the allotment order dated 30.10.1993 issued to the petitioner and issue such further or other appropriate orders or directions.

For Petitioner : (No representation)

For Respondents : Mr.R.S.Selvam

Government Advocate for R1.

Mr.V.Anandhamurthy for R2 and R3.

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The prayer sought for in the present writ petition is to direct the respondents to restore the allotment order dated 30.10.1993 issued to the petitioner.

Brief facts of the case is as follows;

2. The petitioner, on seeing the advertisement given by the 3rd respondent in the newspaper, has applied for allotment of house. The 3<sup>rd</sup> respondent vide allotment Order No.HR2/3082/93

dated 30.10.1993, communicated that L.I.G (TD No.53/89) House No.416 at Royakotta Road, Phase X Scheme has been allotted to the petitioner and he has to pay an amount of Rs.22,300/- towards deposit amount, after adjusting a sum of Rs.1,000/- which was already paid by the petitioner, within 30 days from the date of the receipt of the regular allotment order.

3. The petitioner further submitted that as per the said advice, the petitioner has deposited Rs.22,300/- to the respondent initially. As per the terms and conditions of the respondent board, the petitioner ought to have remit the remaining amount in monthly installment. The petitioner has paid monthly installment regularly to the respondent. The petitioner further stated that as per the allotment order, he paid amount to the 3rd respondent from the year 1993 onwards on various dates as mentioned below;

|            |   |              |
|------------|---|--------------|
| 15.07.1993 | - | Rs.1000/-    |
| 06.12.1993 | - | Rs.10,300    |
| 21.02.1994 | - | Rs. 12,000/- |
| 09.08.1996 | - | Rs.13,882/-  |
| 04.09.1997 | - | Rs. 3,057/-  |
| 23.09.1997 | - | Rs. 2,000/-  |

4. The petitioner has further stated that as per the terms and conditions, he was regularly paying his monthly installments to the respondent. Due to his illness and stringent financial condition, he was unable to pay the monthly installment regularly, therefore the 3<sup>rd</sup> respondent by its letter dated 31.05.2000 has canceled his allotment.

5. The petitioner has further submitted that he has to take care of his wife, five children and his aged parents and he is working as a driver. After receiving the cancellation letter from the 3<sup>rd</sup> respondent, he sent a representation dated 18.06.2000 for re-allotment of his house by considering his illness and family circumstances. Since no reply was received, the petitioner has sent another representation dated 21.07.2009 to return his entire money paid by him towards the allotment of house. But till date no reply has been received from the respondent, hence the petitioner has filed the present writ petition seeking restoration of allotment order dated 30.10.1993.

6. No representation for the petitioner. The learned counsel for the respondents are present. Perused the documents available on record.

7. The allotment order was issued to the petitioner on 30.10.1993 with certain terms and conditions and in the said allotment order, the petitioner was directed to pay a sum of

Rs.22,300/- (Rupees Twenty two thousand and Three hundred only) after adjusting the deposit amount of Rs.1000/- (Rupees One thousand only) already paid by the petitioner. The cost of the house with tentative land and development cost are given to the petitioner as follows;

1. The cost of the building with tentative land and development cost - Rs.77,800/-
2. Initial Deposit to be paid - Rs.23,300/-
3. Balance cost of building with tentative land and development cost - Rs.54,500/-
4. Monthly Installment - Rs. 873/-
5. Maintenance charges - Rs. 60/- permonth
6. repayment period - 13 years
7. rate of interest - 17%
8. Plot area - 40.00 sqm

8. In the allotment order, it is stated that that land cost is only tentative and the allottee/petitioner is liable to pay the difference in cost, if any, for the land later consequent on the finalisation of cost of the land and the payment of monthly installment and maintenance charges will commence from the date of ready for occupation which will be intimated later.

9. It is further mentioned in the allotment letter that the monthly installment should be paid on or before 15<sup>th</sup> of every month, otherwise penal interest of 20% should be paid for the belated payment of monthly installment. It is further mentioned that the house allotted to the petitioner will be handed over only after executing the lease-cum-sale agreement by the petitioner.

10. In the aforesaid circumstances, this Court is of the view that the 3rd respondent without considering the reasons stated by the petitioner that due to poverty and illness, he was not able to pay his monthly installment, canceled the allotment of house made to the petitioner. Since, the allotment was made under Lower Income Group Scheme i.e. for the people of economically weaker section, the respondent shall consider the petitioner's request on that ground.

11. In the result, the writ petition is disposed of. The cancellation order of the third respondent dated 31.05.2000 canceling the petitioner's allotment order is set aside and the 3rd respondent is directed to consider the petitioner's

representation dated 21.07.2009 in accordance with law and pass suitable orders, within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-  
Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1. The Secretary,  
Urban Development Department,  
Fort St.George, Chennai 600 009.
2. The Chairman and Managing Director,  
Tamil Nadu Housing Board,  
No.331, Anna Salai,  
Nandanam, Chennai 600 035.
3. The Executive Engineer cum Administrative Officer,  
Tamil Nadu Housing Board,  
Hosur, Krishnagiri District.

+lcc to Mr.V.Anandhamurthy, Advocate Sr.51950  
+lcc to the Government Pleader Sr.52368

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W.P.No.18360 of 2009

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