



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

WP (MD) No.555 of 2011

M.Shakila

... Petitioner

Vs.

1.The Managing Director,
Tamilnadu Housing Board,
TNHB Head Quarters,
43, Anna Salai,
Nandanam, Chennai - 600 035.

2.Executive Engineer &
Administrative Officer,
Madurai Housing Unit,
Ellis Nagar, Madurai - 625 016.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the second respondent in letter Ma.Vee 34/93/08 dated 19.07.2010 cancelling the allotment as per MH1/93/08 dated 14.03.2008 quash the same as illegal and direct the second respondent to act upon the conditions prescribed in the application No.7079 dated 03.01.2008.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.R.Janarthanan

ORDER

Heard the learned counsel on either side.

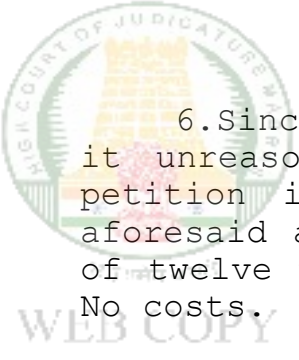
2.The Tamilnadu Housing Board issued a notification inviting applications from interested persons for allotment of MIG D-519 Sector 1 and 2 scheme houses on hire purchases basis on first cum first paid basis in "As is and where is condition" in the year 2007. The writ petitioner herein applied in response thereto vide application No.7079 dated 03.01.2008. Initially, she paid a sum of Rs.53,000/- following allotment made on 10.12.2007. On 02.01.2008, she paid a sum of Rs.30,000/-. Thereafter, the Housing Board issued an allotment order dated 14.03.2008. The allotment order is enclosed at Page No.10 of the typed set of papers. The allotment order reads that House No.MIG D - 519 @ MNNHS is allotted to the petitioner under Hire Purchase basis on first cum first paid bases in "As is and Where is condition".



3. After receiving the aforesaid sum of Rs.83,000/- from the petitioner and issuing allotment order dated 14.03.2018, nothing further was heard from the Board. Therefore, the petitioner submitted representations to the Housing Board. The grievance expressed by the petitioner is that even though a MIG house was allotted to the petitioner, on ground no such house is in existence. Instead of properly considering the grievance expressed by the petitioner, the Board took a strange plea that the petitioner did not come forward to pay the balance amount and that therefore, the allotment made in favour of the petitioner stood cancelled. After submitting few more representations to the Board, the present writ petition was filed.

4. This writ petition was filed in January, 2011. When it was taken up for hearing in the year 2015, the then Standing Counsel for the Tamilnadu Housing Board contended that the writ petitioner has to blame herself because she did not fulfil the terms of allotment by not remitting the entire deposit amount. It was further claimed that the allotted house is very much in existence. That necessitated appointing an Advocate Commissioner Mr. I. Robert Chandrakumar. The Advocate Commissioner had to do spot inspection and submitted a report dated 28.11.2015 categorically affirming the allegations of the writ petitioner. The Advocate Commissioner has noted that there are no traces of any construction in the plot in question. The Advocate Commissioner has also taken photographs and it is seen that the whole area is covered with thorny bushes.

5. This writ petition has come up for final hearing after a lapse of three years. The present standing counsel has taken a fair stand that he does not intend to contest the Advocate Commissioner's report. Therefore, this Court refrains from levying any exemplary cost or fine to the housing board. However, the respondent housing board is bound to return the amount of Rs.83,000/- received from the petitioner with interest. This Court is of the view that the writ petitioner should also be paid the litigation expenses. Since the deposit amount comes to Rs.83,000/- and the litigation expenses comes to Rs.10,000/-, the Managing Director, Tamilnadu Housing Board, Chennai is directed to pay the sum of Rs.93,000/- to the petitioner with interest at the rate of 12 % per annum to be computed from the date of filing this writ petition, namely, 08.01.2011, till date of payment, within a period of twelve weeks from the date of receipt of a copy of this order. A sum of Rs.10,000/- was paid by the petitioner to the Advocate Commissioner towards remuneration. That was in the year 2015. The said amount of Rs.10,000/- will carry 8% interest to be computed from 18.11.2015 till date of payment. The Advocate Commissioner Thiru. I. Robert Chandrakumar is entitled to receive additional remuneration of Rs.5,000/- also which shall be paid by the respondent housing board directly.



6. Since the stand in the impugned order is on the very face of it unreasonable, the impugned order is set aside and this writ petition is allowed with the directions set about above. The aforesaid amounts shall be paid by the respondents within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

/True Copy/

Sd/-
Assistant Registrar(CO)

Sub Assistant Registrar(CS-I)

To

1. The Managing Director,
Tamilnadu Housing Board,
TNHB Head Quarters,
43, Anna Salai,
Nandanam, Chennai - 600 035.

2. Executive Engineer &
Administrative Officer,
Madurai Housing Unit,
Ellis Nagar, Madurai - 625 016.

+1CC to Mr.K.K.Kannan, Advocate, SR.No. 95856

+1CC to Mr.R.Janarthanan, Advocate, SR.No.95725

+1CC to Mr.I.Robert Chandra Kumar, Advocate, SR.No. 96185

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SKM

ES/RP/SAR 1/22.11.2018/3P/6C