

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 12.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.1018 to 1020 of 2013

1.K.Subbarayan	Petitioner in WP.No.1018 of 2013
2. M.Athiappan	Petitioner in WP.No.1019 of 2013
3. A.Ramabai	Petitioner in WP.No.1020 of 2013

Vs

1. The Secretary to Government, MA&WS Dept, Fort St.George, Chennai 9.	
2. The Commissioner of Municipal Adm. Chepauk, Chennai 5.	
3. The Commissioner, Rasipuram Municipality, Rasipuram 637 408.	... Respondents (in all writ petitions)

Common Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the respondents to execute outright sale of writ petitioner's houses in respective Door Nos.10, 14 and 6 Anna Nagar, Namakkal Road, Rasipuram 637 408, in favour of the petitioners according to the market rate fixed as per the principles stipulated under the LIG Housing scheme of Government of India based on the resolution passed by the 3rd respondent in resolution no.371, dated 17.02.1995 within a reasonable time.

For Petitioners : Mr. K.Venkataramani,
Senior Counsel for M.Muthappan
For Respondents: Mr.Akhil Akbar Ali,
Govt.Advocate for R1 & R2
No Appearance for R3.
(in all the writ petitions)

COMMON ORDER

The Government of India way back in the year 1957, with an aim to provide housing to its employees, had brought a policy under which an employee who was occupying a house was entitled to purchase a house under

the scheme. The writ petitioners in this batch of writ petitions were staying in the houses under the LIG Housing scheme of Government of India. The writ petitioners contended that, 20 houses were constructed by the Commissioner, Rasipuram Municipality, Rasipuram, and out of the said 20 houses which were constructed by the Commissioner, under G.O.Ms.No.662, dated 14.04.1991, four houses were sold to them on outright basis after recovering the cost from them.

2. The petitioner also applied for the sale of the house in his favour by filing an application on 09.02.1995. The petitioner states that the Rasipuram Municipality in its Resolution No.371 dated 17.02.1995, has accorded approval to the assignment of the above house to the petitioner after obtaining orders from the Government.

3. It is stated that, though these proposals were sent way back in the year 1995, there has been no response from the Government. The petitioner superannuated from his service. The petitioner has therefore, prayed that the respondents must be directed to execute the sale deed based on the Resolution No.371, dated 17.02.1995. The Government has filed a counter stating that, G.O.Ms.No.730, Rural Development and Local Administration Department dated 14.04.1976, has been issued, wherein, the policy for sale of such properties has been banned and the prayer sought by the writ petitioner cannot be granted.

4. Mr.K.Venkata Ramani, Senior Counsel, appearing on behalf of the writ petitioners would show that, the Government has consistently relaxed on G.O.Ms.No.730, Rural Development and Local Administration Department dated 14.04.1976. He placed reliance on G.O.Ms.No.653 dated 16.04.1977, in respect of the housing society for Erode. The said Government Order reads as under:-

"ORDER:-

In the letter first read above, the Government agreed with the views of the Inspector of Municipalities and rejected the request of the Erode Municipality for permission to sell 66 Low Income Group Housing houses constructed by the Municipality in Erode to the occupants.

2. The President of the Residents of Municipal low Income Group Housing Colony Association, Erode has requested the Government in the petition third read above, to reconsider

the matter and permit the Municipality to sell the houses to the occupants on hire-purchase basis. He has represented that the Erode Municipality had passed a resolution as early as 1968 to sell the quarters to the occupants with certain conditions and has pointed out that they were constructed as early as 1957-58 under Low Income Group Housing.

3. The Government have re-examined the question. It is observed that these houses were constructed in 1957 by the Erode Municipality under the Low Income Group Housing Scheme* Similar houses constructed in Madurai, Coimbatore, Tiruchirapalli and Salem Municipalities during the same period, have been permitted to be sold to the respective Municipal Employees. The Erode Municipality has also passed a resolution No.769 dated 27-9-68 agreeing to the sale of those quarters to the respective occupants who were its employees. Since the houses were put up 20 years back and in view of the fact that Madurai Corporation and Coimbatore, Tiruchirapalli and Salem Municipalities have been permitted to sell the Low Income Group Housing Scheme quarters to their employees, it is considered that the request of the Association in this case may be complied with and that the ban imposed in G.O.Ms.No.730, FDLA, dated 14-4-76 may be relaxed.

4. The Government accordingly relax the ban Imposed in G.O.Ms.No.730, RDLA, dated 14.4.76 and in modification of their earlier decision communicated in the letter first read above permit the Erode Municipal Council to sell the 66 houses to the respective occupants as resolved in its resolution no.769, dated 27-9-68 subject to the conditions specified in that resolution.

5. The Inspector of Municipalities and Commissioner. The Municipalities are requested to acknowledge the receipt of this Government order".

5. The learned counsel for the writ petitioners placed reliance on another G.O.Ms.No.662 dated 14.04.1981, in respect of the very same Municipality, which reads as under:-

"Order:

The Special Officer, Rasipuram Municipality has stated that the Rasipuram Municipal council constructed 20 houses under the Low Income Group Housing Scheme during the year 1967 at Bharathidasan road, Rasipuram and let them on rental basis, out of 20 houses, four houses are occupied by the Municipal

employees as detailed below:-

Name and Designation of the Occupant.	House No.
1. Thiru K.C.Kumarasami, Headmaster Elementary School, Rasipuram.	2
2. Tmt.S.Kanakamma, Secondary Grade Assistant, Municipal Elementary School, Rasipuram.	3
3. Thiru. M.K.Periyasamy, Junior Asistant, Rasipuram Municipality	4
4. Thiru. M.Jeevarathinam, Secondary Grade Assistant, Municipal Elementary School, Rasipuram.	20

The above four mentioned Municipal employees represented that they do not possess any house either in their names or in the names of their spouses or dependants and requested that the house5 occupied by them be allotted in their favour on hire purchase basis. The Rasipuram Municipal council in its resolution No.156, dated 21.8-78 resolved to sell the houses to the respective municipal employees after obtaining the approval of the Government.

The Special Officer, Rasipuram, has requested orders of the Government The Director of Municipal Administration has forwarded the proposals to Govt.

3. The Government after detailed examination of the proposals permit the Municipal council, Rasipuram in relaxation of the ban imposed in the Government Order first read above, to sell the houses constructed under the Low Income Group Housing scheme to the four-occupant Municipal €»employees mentioned in para 1 above on hire purchase basis.

(By order or the Governor)

K.B.N.Shetty,
Commissioner & Secry. to Government."

6. The learned counsel for the writ petitioners further states that, the Government cannot adopt a policy, whereby, they can choose to relax the G.O.Ms.No.730, in cases according to their whims and fancy.

7. The contention of the learned counsel for the Government that, by virtue of G.O.Ms.No.730, dated 14.04.1976, the prayer of the petitioner cannot be

granted, cannot be accepted in view of the fact that, the State has relaxed the said G.O. in several cases. Two such cases has already been quoted supra. No reason is forthcoming from the Government as to why it relaxed the said policy. It is not clear as to why G.O.Ms.No.730 has not been relaxed in the case of the petitioner. No action has been taken by the Government on the resolution sent by the Rasipuram Municipality from 1995 till date. 24 years has been passed, but no action was taken by the Government.

8. The petitioners are directed to give one more representation to the Government and the Government is directed to consider the representation of the petitioner for sale of the property, at door No.10, Anna Nagar, Namakkal Road, Rasipuram 637 408, within a period of 2 months from the date of the receipt of the representation from the petitioner.

9. The writ petitions stands disposed of. No Costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Pkn
To

1. The Secretary to Government,
MA&WS Dept, Fort St.George,
Chennai 9.
2. The Commissioner of Municipal Adm.
Chepauk, Chennai 5.
3. The Commissioner,
Rasipuram Municipality,
Rasipuram 637 408.

+1cc to Mr.M.Muthappan , Advocate SR.No. 37567
+1 cc to Government Pleader Sr.No.37740

W.P.Nos.1018 to 1020 of 2013

A.SK(15/05/2019)