

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.11014 of 2008 &
M.P.No.2 of 2008

Mr.N.Mariappan
2.Bhoopathy
3.Murugaraj
4.Senthil Kumar
5.Sakthipriya

.... Petitioners

(Petitioners 2 to 5 are substituted as
legal representatives of the deceased
first petitioner vide order dated 19.07.2018
in M.P.No.1 of 2014 in W.P.No.11014 of 2008)

Vs

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Housing Board and Urban
Development Department,
Fort St. George, Chennai - 9.
- 2.The Executive Engineer and
Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Ashok Nagar, Chennai - 93.

3.Mr.Ravivarma

... 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 records of the second respondent in G.O.(2D)No.152, Housing Board and Urban Development (Ve.Va./5(1) Department, dated 18.06.2007, quash the same and consequently direct the second respondent to reallot the flat at HIG B-1 at Major Trustpuram, which was originally allotted to the petitioner.

For Petitioner : Mr.S.Mohana Sundara Rajan

For Respondents: Mr.A.Ansar

Government Advocate for R1

Mr.R.Bharath Kumar
Standing Counsel for R2

Mr.G.S.Mohanfor R3

ORDER

The petitioner has come forward with this Writ Petition to quash the proceedings of the second respondent vide G.O.(2D) No.152, Housing Board and Urban Development (Ve.Va./5(1) Department, dated 18.06.2007, whereby the allotment of flat made in favour of the petitioner was cancelled.

2. Mr.S.Mohana Sundara Rajan, learned counsel for the petitioner would submit that the petitioner is a social worker and he belongs to Adi Dravidar Community. Though the Government allotted a residential flat in HIG in Flat No.B1, at Major Trustpuram, Kodambakkam, Chennai, and the petitioner paid a sum of Rs.2,72,848/- towards cost of the building, the petitioner could not pay the remaining sale consideration and occupy the flat due to his ill-health. The learned counsel further submitted that the respondents without considering those aspects and in an arbitrary and discriminatory manner cancelled the allotment made in favour of the petitioner.

3. Mr.R.Bharath Kumar, learned Standing Counsel for the second respondent would state that though the petitioner has paid a part of the sale consideration, the balance sale consideration was not paid by the petitioner and he also did not choose to occupy the flat for more than 15 months and hence, the allotment was cancelled.

4. The learned Standing Counsel, by referring the counter affidavit submitted that as per G.O.(2D)No.225, dated 23.11.2005, the beneficiaries should remit the demand amount within 21 days from the date of receipt of the order from the Executive Engineer and take over possession of the residential unit. The said material fact has been suppressed by the petitioner in his affidavit.

5. The learned Standing Counsel further by producing the worksheet of Assistant Revenue Officer, K.K.Nagar, Division, dated 02.08.2018 would submit that as per the Government Circular, dated 28.06.1999, the respondent-Housing Board is entitled to recover interest from the petitioner for a sum of Rs.95,451/- and the second respondent is ready to refund the balance sum of Rs.1,77,397/- to the petitioner.

6. Heard both sides and perused the materials placed on record.

7. In the case on hand, it is an admitted fact that due to non-payment of the balance sale consideration, the allotment made in favour of the petitioner was cancelled and the flat has now been allotted in favour of the third respondent.

8. In view of the above fact, I find no valid reason to interfere with the order impugned in the Writ Petition. However, in view of the letter of the Assistant Revenue Officer, K.K.Nagar Division, dated 02.08.2018, the second respondent is directed to refund the amount of Rs.1,77,397/- to the petitioners within a period of two weeks from the date of receipt of a copy of this order.

9. With the above direction, the Writ Petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

r n s

To

1.The Secretary,
Housing Board and Urban
Development Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 9.

2.The Executive Engineer and
Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Ashok Nagar, Chennai - 93.

+1 CC to Mr.R.Bharath Kumar, Advocate sr 60312.
+1 CC to Mr.G.S.Mohan, Advocate sr 59507.

W.P.No.11014 of 2008 &
M.P.No.2 of 2008

RSI (CO)
SP(16/08/2019)