

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.07.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.19879 of 2004 and 38736 of 2016
and
W.M.P.Nos.32293 and 33188 of 2016

S.Balaji ..Petitioner in both W.Ps.

vs

1.The Member -Secretary, (CMDA)
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

...1st Respondent in W.P.No.38736 of 2016

2.The Chief Executive Officer, (CMDA)
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

...Respondent in W.P.No.19879/2004/
2nd Respondent in W.P.No.38736 of 2016

Prayer in W.P.No.19879 of 2004: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent dated 17.10.2003 in letter No.K5/5174/99 and quash the same and consequently direct the respondent to allot the shop at the reduced rate of allotment at Rs.2000 per sq.ft in par with the others.

Prayer in W.P.No.38736 of 2016: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari Mandamus, calling for the records of the first respondent impugned notice dated 22.09.2016 and the same was affixed on 18.10.2016 with reference letter No.K5/8647/02 and quash the impugned notice.

For Petitioner : Mr.C.M.Mohanasundaram
(In both W.Ps)
For Respondents : Mr.S.T.S.Moorthy, AAG
(In both W.Ps) Assisted by
Mr.J.Ramesh, AGP.

COMMON ORDER

The prayer sought for in W.P.No. 19879 of 2004 to call for the records of the respondent dated 17.10.2003 in letter No.K5/5174/99 and quash the same and consequently direct the respondent to allot the shop at the reduced rate of allotment at Rs.2000 per sq.ft in par with the others.

2.The prayer sought for in W.P.No.38736 of 2016, calling for the records of the first respondent impugned notice dated 22.09.2016 and the same was affixed on 18.10.2016 with reference letter No.K5/8647/02 and quash the impugned notice.

3. According to the petitioner, he applied for the allotment of perishables shop in Koyambedu, wholesale market complex vide Application No.B2/NGT/K071 on 22.02.2000. Thereafter the second respondent vide proceedings in Proc. No.K2/2794/2000 dated 21.03.2000 had communicated to the petitioner that the petitioner had been provisionally allotted TF/121 in vegetable/fruits/flowers market and also directed the petitioner to pay an initial down payment of Rs.4,19,773/- on or before 31.03.2000. After the allocation of the shop the second respondent fixed the at Rs.3,000/- per sq.ft and he also directed the petitioner to pay a sum of Rs.1,90,562/- the amount being 20% of total cost and the petitioner had made the payments within the stipulated date by way of demand drafts.

4.After long time the second respondent herein had reduced the square feet rate and started allotting the vacant shops afresh and also the petitioner made a representation to the second respondent to consider his allotment also at a reduced square feet rate which the second respondent has neglected. The petitioner has been put to irreparable loss and hardship because of the attitude of the second respondent. In third week of the June 2004 the second respondent sent a person in order to close the shop of the petitioner, as a result of which, the petitioner went to the second respondent office and he was compelled to pay the installments they had fixed. On the date, the petitioner had paid some amount and also he was willing to pay the installments at the reduced rate as is being claimed by the respondents from the similarly placed allottees. After this temporary settlement the petitioner found that his shop number had been put up in notice board as vacant and it was allocated to third party. Hence, the W.P.NO.19879 of 2004 is filed.

5.After considering the petitioner's submission this Court directed the second respondent to resume possession on condition to pay a sum of Rs.1 Lakh vide order dated 15.07.2004 and on payment the key was again handed over to the petitioner on 23.07.2004 by the second respondent. Pending the W.P another

order was passed and the petitioner was directed to pay a sum of Rs.5,53,474/-. As per the direction of this Court the petitioner had paid the said amount by way of demand draft infavour of the second respondent and handed over the same to the second respondent counsel and also directed to the petitioner to clear the quarterly installment till 2010; the petitioner paid a sum of Rs.2,00,000/-, to the respondent and the same was received by the respondent. However the respondent suppressing the payment made, failed to give credit. Challenging the above said order the present writ petition is filed.

6.The learned counsel for the petitioner submitted that this court by an order dated 08.10.2018 in W.P.No.38736 of 2016, directed the petitioner to deposit a sum of Rs.2,00,000/-, the petitioner has been fully complied with the condition. He further submitted that the petitioner is ready to deposit the entire balance amount within a period of eight weeks from the date of the receipt of the copy of this order, and after paying the entire amount the second respondent may be directed to allot the shop infavour of the petitioner.

7.The learned Government Advocate submitted that the as per the direction of this court in W.P.No.19879 of 2004, the petitioner had paid a sum of Rs.5,53,474/- dated 11.05.2010, by way of demand draft infavour of the second respondent and also this Court directed the petitioner to remit the balance on or before the first week of June 2010, even issuing notice, the petitioner did not pay the balance amount of Rs.39,55,764, till date. He further submitted that this Court may direct the petitioner to pay the entire balance amount. Hence he prays that this Court may pass an appropriate order in accordance with the law.

***"In view of the submission made by the learned counsel for the petitioner that the petitioner had already paid a sum of Rs.20,00,000/- in respect of W.P.No.19879 of 2004, the respondent is directed to collect the balance amount after deducting the amount already paid.**

2. The learned counsel for the petitioner has also produced a Demand Draft before this Court in proof of such payment.

3. In view of the above, Petitioner is directed to pay the balance amount after deducting the amount already paid him and after getting the receipt of the amount, the respondent is

directed to allot the shop in favour of the petitioner ."
Accordingly, this Writ Petition is disposed of. No costs.
Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

***Amended as per order dated
05/09/2019 made in
W.P.No.19879 of 2004**

//True Copy//

Sub Assistant Registrar

tta

To

- 1.The Member -Secretary, (CMDA)
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.
- 2.The Chief Executive Officer, (CMDA)
No.1, Gandhi Irwin Road, Egmore,
Chennai-600 008.

+1cc to Mr.C.M.Mohanasundaram, Advocate Sr.63903
+1cc to Mr.P.Tamilmani, Advocate Sr.64121

W.P.Nos.19879 of 2004 and 38736 of 2016

सत्यमेव जयते

ssd[co]
srg 20/09/2019

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