

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 17160 of 2010

and

M.P. 2 of 2010

M.Palaniappan (Deceased)

Balasubramanian
Managing Partner,
M/s.Palaniappan Balasubramanian & Co.,
LIG 555, New ASTC HUDCO,
Hosur-635 109.

P2 substituted in the place of
deceased M.Palaniappan
as per order dated 07.08.2019
in W.M.P.No.23053/2019

.... Petitioner

Versus

1. State of Tamil Nadu,
represented by its Secretary to
Government,
Housing & Urban Development
Department,
Fort St. George,
Chennai-600 009.

2. Deputy Secretary to Government,
Housing & Urban Development
Department, Fort St. George,
Chennai-600 009.

3. The Chief Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai-600 035.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the
Constitution of India, praying for the issuance of a Writ of
Certiorarified Mandamus, calling for the records vide Letter
No.1509/HB5(1)/08, dated 09.06.2010, on the file of the 2nd

respondent and quash the same and consequently, direct the 1st respondent to allot the commercial plot No.606-A in Phase X of the Hosur Housing unit or any other plot coming under the government discretionary quota in favour of the petitioner and hand over the possession of the plot after collecting the cost within the time frame as may be fixed by this Hon'ble Court.

For Petitioner : Mr.R.Rajiv Gandhi

For Respondents : Mr.R.Bharath Kumar
for R1 to R3

O R D E R

This Writ Petition has been filed challenging the order passed by the 1st respondent rejecting the petitioner's request to allot a commercial plot in Phase X of Hosur housing unit of Tamil Nadu Housing Board (in short 'Board').

2. The grievance of the petitioner is that, the petitioner was allotted a commercial plot in Phase X of Hosur Housing Unit by the 1st respondent in G.O. 2 D No.67, dated 03.03.2004, however, after allotment, the 3rd respondent Board has not fixed the final cost of the plot. Thereafter, by an order dated 31.10.2007, in G.O. Ms. No. 233, Housing and Urban Development Department, the 1st respondent has cancelled the order of the allotment granted in favour of the petitioner on the ground that the allotted commercial plot comes under the Board quota, and Government has wrongly allotted to the petitioner. Challenging the above said order, the petitioner has filed a Writ Petition in W.P.No.238 of 2008, which came to be dismissed on 29.10.2009. While dismissing the Writ Petition, this Court has given a liberty to the petitioner to make a representation for allotment of any plot under the discretionary quota and further directed the 1st respondent to consider the representation and pass orders on merits.

3. Thereafter, the petitioner has submitted an application dated 24.11.2009 to the 1st respondent, now, the 2nd respondent has rejected the application on the ground that since the above said plot comes under the Board quota, the same cannot be allotted to the petitioner. Challenging the said order, the present Writ petition has been filed. According to the petitioner, the conversion of Government quota into Housing Board quota. This Court has directed the 1st and 2nd respondents to consider the petitioner's application to allot plot on the discretionary quota, without following the same, his application has been rejected.

4. The 3rd respondent Housing Board has filed a counter affidavit stating that, plot No.606A is reserved for the community centre under the Housing Board quota, and the plot cannot be allotted by the Government under the Government discretionary quota. Since cost of land and development of Phase X, Hosur had not been finalised by the Board, during 2004, the cost for the plot in question has not been fixed. This Court in the earlier order directed the Government to consider the petitioner's representation and pass suitable orders on merits, but, there is no positive direction to allot a plot to the petitioner. Any plot, which has been reserved for the Board quota can only be allotted by the Board through open auction after giving proper advertisement, hence, plot No.606-A could not be allotted directly by the Board. It is further stated that the Board's quota in Plot No.606-A has not been converted into Government discretionary quota till date, and the Government has already abolished the Government Discretionary quota vide order dated 07.01.2011, and there is no land available under the Government discretionary quota in the above said scheme.

5. I have heard the submissions made by the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondents Housing Board and perused the records carefully.

6. Originally, the petitioner was allotted a site in plot No.606-A at Phase-X in the Hosur Housing Unit, by the Government under the Government discretionary quota, before fixing the final cost, it was brought to the knowledge of the Government that the land was not given under the Government discretionary quota, and immediately, the allotment was cancelled. The above said order of cancelling the allotment was challenged before this Court, and this Court while dismissing the Writ Petition, granted a liberty to the petitioner to make a representation for allotment of any plot in discretionary quota, and the Government is also directed to consider the same. In pursuant to the same, the petitioner has made an application requesting to allot same plot to him, that representation came to be rejected on the ground that the plot was not kept under the Government discretionary quota, and further directed the petitioner to participate in the public auction whenever it brought under public auction.

7. The petitioner only wants the allotment of site in Plot No.606-A, but that plot is not available under the Government discretionary quota, and it is a community centre plot coming under the Board quota. It is also stated that now, the Government has also abolished the Government discretionary quota

vide G.O.Ms.No. 6, Housing and Urban Development Department, dated 07.01.2011. As such, when the plot is not available with the Government under the discretionary quota, there is no occasion for the Government to allot the plot to the petitioner. In the above circumstances, the 1st respondent passed an order rejecting the petitioner's request stating that the Housing Board plot can be sold only through the public auction, and the petitioner can participate in the public auction whenever the above said plot was brought for public auction. In the said circumstances, I find no illegality or irregularity in the order passed by the 1st respondent and I find no merit in the Writ Petition. Hence, the Writ Petition is liable to be dismissed. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. Secretary to Government,
State of Tamil Nadu,
Housing & Urban Development
Department,
Fort St. George, Chennai-600 009.
2. Deputy Secretary to Government,
Housing & Urban Development
Department, Fort St. George,
Chennai-600 009.
3. The Chief Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.

+1cc to Mr.R.Rajiv Gandhi, Advocate Sr.84374
+1cc to the Government Pleader Sr.85062, 85063
+1cc to Mr.R.Bharathkumar, Advocate Sr.84770

W.P. 15475 of 2005
and
W.P.M.P. 16882 of 2005

srg 04/12/2019