

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2019

CORAM :

THE HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

W.P.No.22186 of 2013
and M.P.Nos.1 and 2 of 2013

P.K.N.Arumugam

... Petitioner

Vs.

The Tamil Nadu Housing Board,
Represented by the Executive Engineer & ADO,
Mogappair Division,
TNHB Building, Thirumangalam,
Chennai - 600 101.

... Respondent

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India, praying in the nature of Writ of Certiorarified Mandamus, to call for the records in Letter No.J.J.A7/1557/2007, dated 06.03.2012 and 04.02.2013, quash the same and consequently, direct the respondent to receive the balance due from the petitioner and handover possession of Flat No.GB, GF, Mugappair Eri Scheme III, J.J.Nagar Division of the respondent.

For Petitioner : Ms.D.Geetha

For Respondent : Mr.R.Bharath Kumar

O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records in Letter No.J.J.A7/1557/2007, dated 06.03.2012 and 04.02.2013, quash the same and consequently, direct the respondent to receive the balance due from the petitioner and handover possession of Flat No.GB, GF, Mogappair Eri Scheme III, J.J.Nagar Division of the respondent.

2. The respondent has called for applications for allotment of Flats in their project of Mogappair Eri Scheme I, II, III and IV and it is a Self Finance Scheme. The petitioner had applied for allotment of a Flat in Scheme III and had made an initial deposit of Rs.2,16,000/-. The cost of Flat was estimated as Rs.20,88,000/-. The allotment letter was issued to

the petitioner which reads as follows:-

"I am glad to inform that you have been selected for allotment of Flat No.GB in GROUND Floor at Mogappair Scheme-3 under Self Finance Scheme by drawal of lot. The Cost of Flat is Rs.20,88,000/- measuring an extent of Plinth Area is 696 Sq.Ft.

You are requested to give undertaking of willingness on or before 05.03.2007; failing which, the Flat will be allotted to the Waiting List Applicant. You are also requested to execute the Lease-cum-Sale Agreement.

Further I am to inform that the following Balance payment for the above Flat is to be paid as indicated below:-

1. 30% of Flats Cost of Rs.6,19,200/- to be paid before 30.04.2007

2. 40% of Flats Cost of Rs.8,35,200/- to be paid before 30.07.2007

3. 20% of Flats Cost of Rs.4,17,600/- to be paid before 30.10.2007

Interest will be charged at the rate of 9% for the delayed payment.

You are also requested to furnish the following documents.

1. Age Proof Certificate
2. Community Certificate
3. Income Certificate
4. Identification Certificate, duly attested by Gazetted Officer
5. Xerox copy of Ration Card / Voter I.D. / Pass Port.

The Maintenance charges of Rs.750/- Per Month has to be paid to the TNHB from the handing over of the Flat till the taking over the Maintenance by the Allottees Association (Registered)."

3. The petitioner paid a sum of Rs.6,19,200/- by way of Demand Draft on 13.02.2007. The petitioner has not made any payment thereafter. The allotment to the petitioner has been cancelled by an order dated 06.03.2012 being Letter No.J.J.A7/1557/2007. The petitioner gave a representation dated 28.02.2013 stating that he has paid a sum of Rs.8,35,200/- and was not able to pay the remaining amount due to ill-health. Another representation dated 04.04.2013 was also sent by the petitioner. The petitioner states that since his request has not been considered, he has filed the instant Writ Petition.

4. During the course of hearing, the learned counsel appearing for the respondent stated that on cancellation of allotment, the allottee can file an application for revocation

of cancellation, which is to be considered by a Committee constituted for this purpose. The learned counsel for the respondent has produced a copy of the proceedings No.Allot.I.4/7767/2003, dated 15.02.2003 stating that the application for revocation is placed before a Committee mentioned in the resolution. The said proceedings reads as follows:-

"Proceeding No.Allot.I.4/7767/2003

Dated :
15.02.2003

Present : Thiru.Surjit K.Chaudhary, IAS.,

Sub: Tamil Nadu Housing Board - Allotment -
Allotment of Plots/ Houses/ Flats/
Commercial, Institutional, School etc.
Sites/ Cancellation - Revocation -
Formation of revocation Committee -
Regarding/

Ref Board Resolution No.9.05 dated
: 30.01.2003.

* * * * *

Hitherto, the proposals relating to revocation of cancellation of allotment of Plots/Houses/ Flats/ Commercial, Institutional, School Sites etc. cancelled due to non-payment of monthly instalments arrears were placed before the Board for its approval.

The Board in its Resolution No.9.05 dated 30.01.2003 has recommended for the formation of a revocation committee with membership as below:-

1. Managing Director
2. Secretary & Personnel Officer
3. Chief Engineer
4. Financial Adviser as Members; and
5. Chief Revenue Officer.

Accordingly, the Revocation Committee is formed to deal with the matters relating to revocation of cancellation of allotments of Plots/Houses/Flats/ Commercial, Institutional, Religious, School and other sites, cancelled due to non-payment of monthly instalment arrears, with the following members:-

- | | | |
|----------------------------------|---|----------|
| 1. Managing Director | - | Chairman |
| 2. Secretary & Personnel Officer | - | Member |
| 3. Chief Engineer | - | Member |
| 4. Financial Adviser | - | Member |
| 5. Chief Revenue Officer | - | Member |

The Superintending Engineers/Executive Engineers and Admn. Officers are requested to send the revocation proposals in complete shape to the convener of the Revocation Committee.

Sd/- Surjit

K.Chardhary,

Managing Director.

To

All Members of the Revocation Committee.

Copy to :

1. All Superintending Engineers/Executive Engineers & Admn. Officers.
2. P.A. to M.D./TNHB
3. P.C. To S&PC/CE/FA/CRO
4. A.S. (Allot.)/TNEB
5. Stock File/Spare Copy

//Forwarded By Order//

ASST. SECRETARY,
ALLOTMENT (I/C)."

5. The learned counsel for the respondent has also produced an order dated 31.07.2018 passed in W.P.No.23238 of 2013 in the case of J.Mallika (Deceased) and others Vs. the Secretary to Government, Housing and Urban Development Department, Secretariat, Madras, and another, wherein, in an identical circumstances, this Court has granted liberty to the parties to approach the Committee.

6. The learned counsel for the petitioner has accepted the said proposal.

7. In view of the above, the petitioner is at liberty to approach the Committee for consideration of revocation of the order of cancellation. The Committee shall look into the matter and decide as to whether the cancellation should be revoked or not. If the Committee feels that the cancellation cannot be revoked, the petitioner would be entitled to refund of the amount given by him with interest at the rate of 6% per annum from the date of payment till the date of refund.

With the above directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

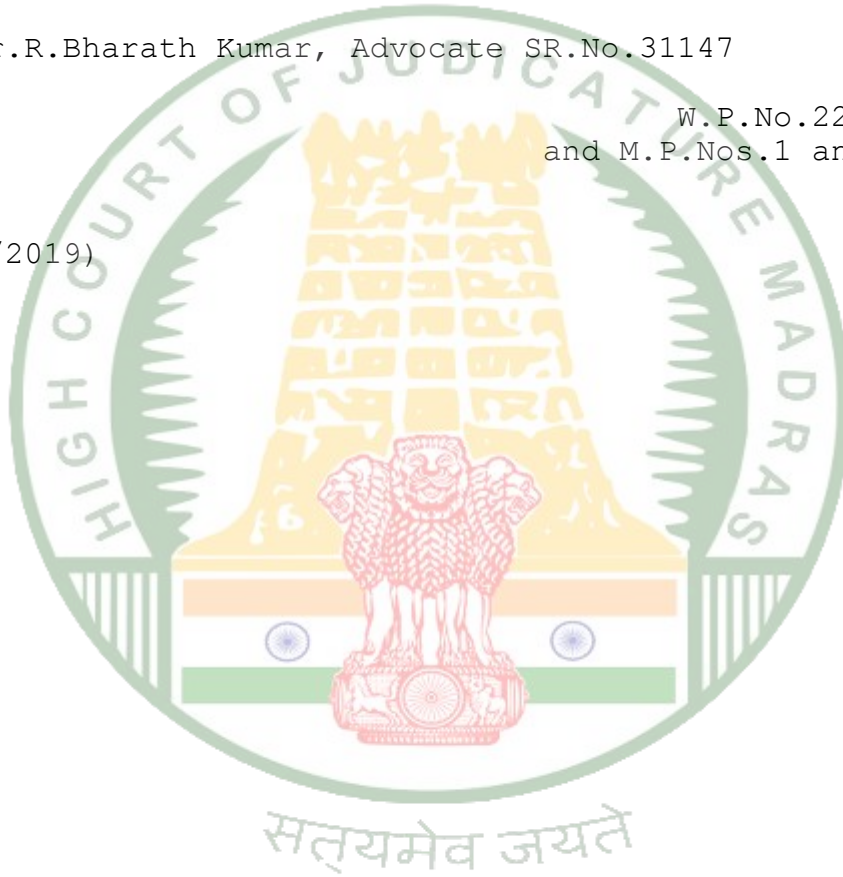
The Executive Engineer & ADO,
Tamil Nadu Housing Board,
Mogappair Division,
TNHB Building, Thirumangalam,
Chennai - 600 101.

+1cc to Ms.D.Geetha, Advocate SR.No.30723

+1cc to Mr.R.Bharath Kumar, Advocate SR.No.31147

W.P.No.22186 of 2013
and M.P.Nos.1 and 2 of 2013

SSV(CO)
GMY(28/05/2019)



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