

In the High Court of Judicature at Madras

Dated : 12.12.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.27212 of 2016

Dr.Gnanasekaran

...Petitioner

Vs

1.The Chairman, Tamil Nadu
Housing Board, Chennai.

2.The Executive Engineer &
Administrative Officer,
Hosur Housing Unit, Hosur.
PIN : 635109

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the entire records pursuant to the rejection letter sent by the 2nd respondent vide letter No. HR-2/288/2009 dated 27.6.2016 to the petitioner, quash the same and direct the respondents to register a sale deed in favour of the petitioner for Flat No.HIG-II, House No.1224, Phase XVI, Hosur, Krishnagiri District Stage II Neighbourhood Scheme within a stipulated time.

For Petitioner :Mr.S.Siva for Mr.R.Veeramani

For Respondents :Mr.R.Bharathkumar

ORDER

I have heard Mr.S.Siva, learned counsel appearing on behalf of Mr.R. Veeramani, learned counsel on record for the petitioner and Mr.R. Bharathkumar, learned Standing Counsel for the respondents.

2. This writ petition has been filed by a person, who purchased an individual house in the scheme developed by the Tamil Nadu Housing Board called as Krishnagiri District Neighbourhood Scheme Stage II at Hosur.

3. The house was purchased by the petitioner under the self finance scheme and he was selected by drawal of lots. The cost of the house was fixed at Rs.22,72,000/-. The petitioner paid

Rs.1,14,600/- along with the application form and subsequently deposited 10% of the cost namely Rs.2,37,200/-. The sale agreement was executed in favour of the petitioner by the second respondent. Thereafter, the second respondent gave a no objection certificate to enable the petitioner to avail a housing loan from the State Bank of India, Vaniyambadi Branch, which, in turn, sanctioned the loan and a sum of Rs.21,34,800/-, which being the balance cost of the house allotted to the petitioner, was paid to the Housing Board by the bank on 28.10.2010. This amount was accepted by the respondent - Board.

4. Though, as per the communication of the second respondent, the house would be allotted to the petitioner in May 2011, the same was not handed over, but possession was given to the petitioner only on 25.11.2015 by the proceedings of the second respondent. Thereafter, the petitioner has been requesting to execute the sale deed in his favour. However, the respondent - Board did not accede to the request, which compelled the petitioner to approach this Court by filing W.P.No.14386 of 2016 praying for a direction to the respondents to register the sale deed in favour of the petitioner. A learned Single Judge of this Court, after noting the factual position i.e., the payment made by the petitioner as early as 2010 and the possession having been given only in the year 2015, directed the representation given by the petitioner dated 23.10.2015 to be considered and orders to be passed on merits. Pursuant to such a direction, the second respondent passed the impugned order.

5. Curiously enough, in the impugned order, the second respondent demanded interest from the petitioner for the period from August 2010 till the date of passing the impugned order dated 27.6.2016. The reason being that the petitioner delayed the payment of full costs and paid the amount only on 30.10.2010, that the respondent - Board suffered on account of belated payment and that they should be compensated, for which purpose, interest is payable.

6. In the considered view of this Court, the observations contained in the impugned order are utterly perverse for the following reasons :

Firstly, the purchase was effected by the petitioner under the self finance scheme. It is not disputed by the respondent - Board that along with the application, the petitioner remitted Rs.1,14,600/- and subsequently deposited a sum of Rs.2,37,200/-, being 10% of the costs. Since the petitioner had to avail the loan, necessarily he had to approach the second respondent for a no objection certificate. This request was processed by the second respondent and only on 15.10.2010, the second respondent informed the bank that the sale deed would be issued in favour

of the petitioner under intimation to the bank. Thereafter, the bank sanctioned the loan and a sum of Rs.21,34,800/- was paid towards balance cost of the house directly to the respondent - Board.

7. In the facts and circumstances, the respondent - Board is wholly unjustified in demanding interest from August 2010 till 2016 when the impugned order was passed. If the stand taken by the respondent - Board is to be accepted, then the petitioner should be paid interest because the full cost of the house has been paid by the petitioner in October 2010 itself. Further, though the possession should have been handed over in May 2011, only in 2015, the house was handed over. Had the respondent - Board been a private builder, obviously there would be a clause in the agreement to compensate the purchaser for delayed handing over. However, since the respondent - Board is a Government Undertaking, they got printed formats and there is no bargaining power for the applicant to insist upon the clauses, which will be balancing the rights of both parties. For all the above reasons, the impugned order is unsustainable in law.

8. Accordingly, the writ petition is allowed and the impugned order is set aside. However, the petitioner is directed to pay interest for the period from August 2010 till 31.10.2010. The interest payable shall be at the rate specified in the order of allotment. The interest shall be calculated and intimated to the petitioner and on remittance of the same, the respondent - Board is directed to execute and register the sale deed in favour of the petitioner within four weeks, from the date on which, the interest as applicable for the above stated period is remitted. No costs.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

To

- 1.The Chairman, Tamil Nadu Housing Board, Chennai.
- 2.The Executive Engineer & Administrative Officer, Hosur Housing Unit,
Hosur. PIN : 635109

+lcc to M/s.S.Sivakumar, Advocate Sr.103486

WP.No.27212 of 2016

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srg 30/01/2020