



Cont.P.No.551 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

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C.Chandrasekhar

.. Petitioner

VS

1.P.K.Vairamuthu
The Chairman,
Tamil Nadu Housing Board,
331, Mount Road,
Nandanam, Chennai – 35.

2.K.Nandhagopal
The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Erode Housing Unit,
Erode.

.. Respondents

Petition filed under Section 11 of the Contempt of Courts Act
to punish the respondents for their wilful disobedience of the order
dated 12.04.2016 made in W.P.No.6175 of 2013.

For Petitioner : Mr.Ajmal Khan,
Senior Counsel
for Mr.R.Arun Kumar

For Respondents : Mr.D.Veerasekaran
Standing Counsel



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ORDER

The petitioner alleges contempt of order dated 12.04.2016 passed in W.P.No.6175 of 2013. The operative portion of the order is as follows:-

"5. From a perusal of the materials available on record, I find that in the judgment dated 12.06.2007 in W.A.Nos.1317 to 1320 of 2000, there is a specific direction by the Division Bench of this Court to the Housing Board to fix the price at which the Housing Board had allotted commercial plots to other people in Sampath Nagar Phase I or Phase II Scheme, as the case may be during the period from January 2000 to June 2000. The SLP filed by the respondents – Housing Board against the said order of the Division Bench was also dismissed. Thus, the order passed by the Division Bench was also confirmed. Further, I find that the respondents had assured the land owners that suitable alternate plots would be allotted to them on a priority basis for residential purposes. But, subsequently, they failed to allot residential plots, that is the reason why the petitioner was forced to approach the Court. Therefore, the petitioner cannot be blamed for the delay. When there is a specific direction by the Division Bench of this Court to the Housing Board to fix the price at which the Housing Board had allotted commercial plots during the period from January 2000 to June 2000, which direction was also confirmed by the Honourable Supreme Court, now by in total violation to the said order, the respondents, cannot fix the price arbitrarily for the plot. Therefore, i am of the opinion that the writ petition deserved to be allowed as prayed for. For the foregoing reasons, the writ petition is



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allowed as prayed for. The impugned order dated 30.01.2013 is quashed and the respondents are directed to allot the plots in accordance with the directions of the Division Bench of this Court in W.A.Nos.1317 to 1320 of 2000, dated 12.06.2007. Consequently, connected miscellaneous petition is closed. No costs."

2. Prior thereto, it would be relevant to note that a batch of writ petitions had been filed by various allottees who had been allotted plots in Sampath Nagar Phase I / Phase II of the scheme floated by the Tamil Nadu Housing Board and orders had been passed by learned Single Judge favouring the allottees.

3. Assailing the aforesaid orders, the Tamil Nadu Housing Board had filed writ appeals in W.A.No.1317 to 1320 of 2000 and by an order dated 12.06.2007, the writ appeals were disposed recording the submissions of the then learned Additional Advocate General. Paragraph 3 is relevant in this regard, and extracted below:-

"3. At this stage Mr.P.S.Raman, learned Additional Advocate General appearing for the Housing Board would state that as on date there are a few commercial plots and if the erstwhile land owners opt for taking those commercial plots, then this Court can consider their request. Each of the counsel appearing for the contesting respondents expressed their readiness to have such commercial plots allotted. As noted earlier, in view of the earlier



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order passed by this Court in respect of other erstwhile land owners directing the Housing Board to allot plots on priority basis, we have decided to extend the benefit to the contesting respondents as well, who are also similarly placed like those earlier ones. Accordingly, the following order is passed:-

"The judgment under challenge in each writ appeal quashing the order impugned in the writ petition is confirmed. However the mandamus issued to allot a residential/commercial plot is modified directing the Housing Board to allot a commercial plot in Sampath Nagar Phase I/ Phase II Scheme to each of the writ petitioners, within a period of 30 days from the date of receipt of a copy of this order. As far as the payment of the price for the plot to be allotted is concerned, since even at the earliest stage when the acquisition proceedings were commenced, the land owners were informed that they must pay the prevailing price and since much water had flown under the bridge from then onwards and the fact that the learned single Judge allowed the writ petitions on 25.04.2000, 19.06.2000 and 30.06.2000, we are of the considered opinion that the ends of justice would be met if the Housing Board is directed to fix the price at which the Housing Board had allotted commercial plots to other people in Sampath Nagar Phase I or Phase II Scheme as the case may be during the period from January 2000 to June 2000. Once a provisional allotment is made by the Housing Board and a demand is made for the price payable for such allotment, each of the allottee would pay the amount demanded within the time fixed by the Housing Board or by three equal bi-monthly instalments to the Housing Board and on payment of the entire sum only, the Housing Board will execute the sale deed."



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4. Thus, there was a categorical finding the in writ appeals to the effect that the allotment of plots must be on the same basis as the rate adopted between January 2000 and June 2000 for the allotment of plots in Phases I and II. With this there can be question that it is this rate which must be applied in the present case as well. It is seen that the father of the present contempt petitioner was in fact one of the petitioners in the writ petition and a respondent in W.A.No.1318 of 2000. Hence this order binds the parties, specifically the Board, absolutely and on all fours.

5. The Board carried the order of the Division Bench before the Hon'ble Supreme Court and the SLP was dismissed at the stage of admission by order dated 21.12.2012. With the dismissal of SLP, there is no further discussion necessary in regard to the applicable rate since the Division Bench has categorically held that the rates must be as adopted between January 2000 and June 2000 for Phases I & II of the project.

6. Notwithstanding dismissal of SLP as early as in 2012, on 30.01.2013 a communication has been issued to the present petitioner calling upon him to remit the consideration computed at



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a sum of Rs.1450 per sq feet as against Rs.49 – 53/- which was the rate applicable between January 2000 and June 2000. It is thereafter that order dated 12.04.2016 as against which contempt is alleged, has been passed by this Court allowing the writ petition of the petitioner quashing order dated 20.01.2003 and directing the respondents to give effect to the directions of the Division Bench dated 12.06.2007.

7. Notwithstanding the above, respondents have issued computation sheet as recently as on 07.06.2018, computing the consideration at the rate of Rs.6150/- There is no sanctity whatsoever to the aforesaid rate and the Board is bound by the directions of the Division Bench dated 12.06.2007.

8. Thus, I am of the prima facie view that the respondents are in rank contempt of order dated 12.04.2016 and are continuing the contumacious act till date, which is not appreciated. A fresh computation will be made of the consideration to be paid by the petitioner adopting the rate as set out by the Division Bench, as per the time line fixed at paragraph 14 to follow.



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9. What remains is the question of interest. According to learned counsel for the respondents, the petitioners are liable for interest at the rate of 10.5%. However, admittedly, the petitioner has been expressing readiness to remit the consideration once properly computed. He also claims to have such a DD for the amount as computed by him which was not encashed.

10. The DD was issued pending this contempt petition and has been returned by the respondents who have stated that an appeal has been filed to challenge the order of 2016 vintage. The respondents have produced case status of Writ Appeal Sr.No. 31358 of 2021 filed by the first respondent challenging the 2016 order. The matter remains status quo till date and no further action has been taken in this regard.

11. Bearing in mind the trajectory of events as noticed in, and recorded in paragraphs supra, I am of the considered view that there should be no interest that must be charged from the petitioner in the present case.

12. The respondents rely on the orders passed by learned Single Judge in other contempt petitions i.e., Cont.P.Nos. 1423 of



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2017 and 742 of 2021 which they state are on facts, similar to the present matter. On a study of those orders, I find that the factual matrices touching upon those and the present matter has been distinguished by the learned Judge, between paragraphs 11 to 16, extracted below:-

"11. In this context, the respondent Housing Board contended that the ex-land owners Tlv.L.Manickasundaram, K.Chellappan Gounder. S.Krishnasamy and S.Palanisamy have filed Writ Petitions on various dates in W.P.Nos.19151/1992 & 19951/1992, 20566/1992 & 16413/1993 challenging the Executive Engineer & Administrative Officer, Erode Housing Unit, Tamil Nadu Housing Board, Erode Letter No.A3/335574/89 etc., and to direct the respondent to allot either a residential or a commercial plot in Sampath Nagar, Phase – I, Erode. The said writ petitions were allowed on 25.04.2000, 19.06.2000 and 30.06.2022. Against the orders, the Housing Board has filed appeals in Writ Appeal Nos.1317 to 1320/2000 and the same appeal was disposed with directions on 12.06.2007, which was discussed in the aforementioned paragraphs.

12. The Special Leave Petition filed by the Housing Board was also dismissed by the Apex Court on 21.12.2012. Thus, as per the Writ Appeal Common Judgment, the Board has fixed the price (1 ½ times cost + Simple Interest) at which Housing Board had allotted commercial plots to other people in Sampath Nagar Phase – I & II in the year 2000 and informed to the legal heirs of the ex-land owners (i.e),

- (i) C.Chandrasekaran S/o K.Chellappan Gounder*
- (ii) L.Manickaasundaram S/o C.Lakshmanan*
- (iii) K.Manoharan and K.Baskaran S/o. S.Krishnasamy*



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(iv) *S.Nirmala Devi, D/o. S.Palanisamy.*

13. *It is further contended that the Tvl.K.Manoharan and K.Baskaran have paid the cost informed to the commercial Plot No.R-46 of Sampath Nagar and received the sale deed, whereas, Tvl.C.Chandrasekaran and L.Manickasundaram had not accepted the price as informed by the Executive Engineer & Administrative Officer, Erode Housing Unit, Erode and they have challenged the Letter No.R9/4623-A/91 dated 30.01.2013 in a separate Writ Petitions, W.P.Nos.6175 of 2013 and 6657 of 2013 to direct the respondents to allot housing plots in accordance with the directions of the Hon'ble Division Bench of this Court in Writ Appeal Nos. 1317 to 1320 of 2000 dated 12.06.2007.*

14.*The Housing Board had also relied on the directions issued by the Hon'ble Division Bench and reiterated that based on the directions issued by the Hon'ble Division Bench of this Court, the plot cost was fixed at in respect of the similarly placed persons who was allotted with the commercial plot at Sampath Nagar scheme.*

15. *This Court is of the considered opinion that the earlier Writ Petitions were filed prior to the year 2000 and the Hon'ble Division Bench had passed a Common Judgment in Writ Appeals the year 2007. The subsequent Writ Petitions in the present case were filed in the year 2013 on allotment of commercial plot in the name of the petitioner Mrs.S.Nirmala Devi. The High Court while allowing the Writ Petition has not considered the rate to be fixed and the rate fixed in respect of the other allottees during the relevant point of time in the year 2000. The High Court quashed the impugned order and directed the respondents to allot the plots in accordance with the directions issued by the Hon'ble Division Bench in the Judgment dated 12.06.2007.*

16. *As per the Judgment of the Hon'ble Division Bench, the plot was allotted in favour*



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of the petitioner and land cost was also fixed. It is reiterated that the land cost fixed in respect of the other allottees in the year 2000 was alone fixed for the petitioners. The other two allottees who also filed a Writ Petitions along with the petitioners had paid the land cost and executed the sale deed."

13. In light of the distinction of facts as noted by him, learned Judge has proceeded to dismiss those contempt petitions. That order would thus have no bearing on the case on hand and I stand by the observations made and conclusions arrived at by me in the present case.

14. The respondents, having been seen to be in contempt of the directions issued by this Court in order dated 12.04.2016, in turn based upon the directions of the Division Bench in W.A.Nos. 1317 to 1320 of 2000 dated 12.06.2007, will issue a fresh computation of the consideration payable strictly as per the aforesaid order within a period of four weeks from today. The consideration quantified will not carry any interest.

15. Upon settlement of the consideration, sale deed shall be executed within a period of four weeks from the date of remittance of consideration.



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16. With this, this contempt petition is allowed. The observations and directions in this order will be seen in the context of the present facts, relatable to this petitioner alone and will not be cited as a precedent in any other similar matters.

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Neutral Citation:Yes
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DR. ANITA SUMANTH,J.

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