

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.28220 of 2018
and WMP.Nos.32958 and 32965 of 2018

Indira Bhat

...Petitioner

Vs

1.The Chief Executive Officer
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008

2.The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008

3.The State of Tamil Nadu
Rep. by its Secretary
Housing & Urban Development Department
Fort St.George
Chennai-09

R3 impleaded vide order dated
07.03.2019 in WMP.No.7178/2019
in WP.28220/2019

...Respondents

Prayer:- This Writ Petition is filed, under the Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for records relating to first respondent's order made in L.R.No.AL1/156/2016 dated 03.09.2018, to quash the same and to consequently direct the respondents to execute the sale in favour of the Petitioner, by accepting the balance due if any forthwith.

For Petitioner : Mr.L.Chandrakumar

For Respondents : Mr.B.Anand,
Government Advocate
for R3
Mr.P.S.Ganesh,
Standing counsel
for R1 and R2 for CMDA.

ORDER

By consent of both sides, this Writ Petition is taken up for final disposal.

2. The Writ Petitioner has challenged the first respondent's order made in L.R.No.AL1/156/2016 dated 03.09.2018 and seeks to quash the same and to direct the respondents to execute the sale in favour of the Petitioner, by accepting the balance due if any forthwith.

3. According to the Petitioner, originally the Petitioner's husband was allotted Block No.18, NH-1 for an extent of about 45.5 grounds by CMDA in and by Letter dated 19.07.1988. Thereafter, due to necessity to expand the school, adjacent vacant land in Block No.26, NH-I was requested to be allotted in favour of the Petitioner's school. Accordingly, towards allotment, additional payment of Rs.8,18,500/- was paid on 13.03.2009 and totally Rs.9,18,500/- was paid. The Petitioner states that she is entitled for allotment of site in Block No.26, NH-1, however, by Proceedings in Lr.No.AL1/158/2016 dated 01.03.2016, stating that the previous allotment of Block No.26, stands cancelled.

4. The Petitioner states that the said cancellation order was challenged in W.P.No.12383/2016 and this court by order dated 28.06.2018 directed the authorities to afford an opportunity of personal hearing and to consider the Petitioner's request. The first respondent, in L.R.No.AL1/156/2016, dated 03.09.2018 had rejected the claim and had also cancelled the allotment made in Block No.26. Aggrieved by the said order dated 03.09.2018, the present writ petition is filed.

5. It is the contention of the learned counsel for the Petitioner that the Petitioner has paid the entire consideration amount in respect of allotment of Plot No.26, therefore, no prejudice would be caused to the respondent-CMDA, if the said plot is granted to the Petitioner. It is further submitted that the Petitioner is running the school for the past 20 years. The learned counsel for the Petitioner, submits that the Petitioner is in possession of the said property and the building is constructed as per the Planning Permission obtained from the Panchayat Authorities.

6. However, it is submitted by the Standing counsel for the respondents 1 and 2 that as per terms and conditions of allotment, petitioner is entitled to allot more than one plot. Hence, the order is perfectly valid as per conditions of the

allotment. Pursuant to the impugned order, CMDA has locked and sealed the premises. It is further submitted that as per the terms and conditions of the allotment order, the Petitioner cannot be allotted two plots and therefore, the second allotment stood cancelled. It is further submitted by the learned counsel for the respondents 1 and 2 that if any representation is made by the Petitioner seeking the necessity of another Plot for running the School, the Government/3rd respondent can consider the request of the Petitioner and pass necessary orders.

7. It is not disputed by the petitioner that as per the terms and conditions of the respondent authority, allotment of more than one plot cannot be made and hence, petitioner seeks liberty to give representation to the 3rd respondent for passing appropriate orders.

8. Recording the aforesaid submission, the Writ Petition is disposed of with liberty to the Petitioner to make a representation to the 3rd respondent, seeking to consider her request setting out entire particulars regarding allotment and running the school. On receipt of such representation, the 3rd respondent shall consider the same and pass appropriate orders, on merits and in accordance with law. No costs. Consequently, connected MPs are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

nvsri
To

1.The Chief Executive Officer
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008.

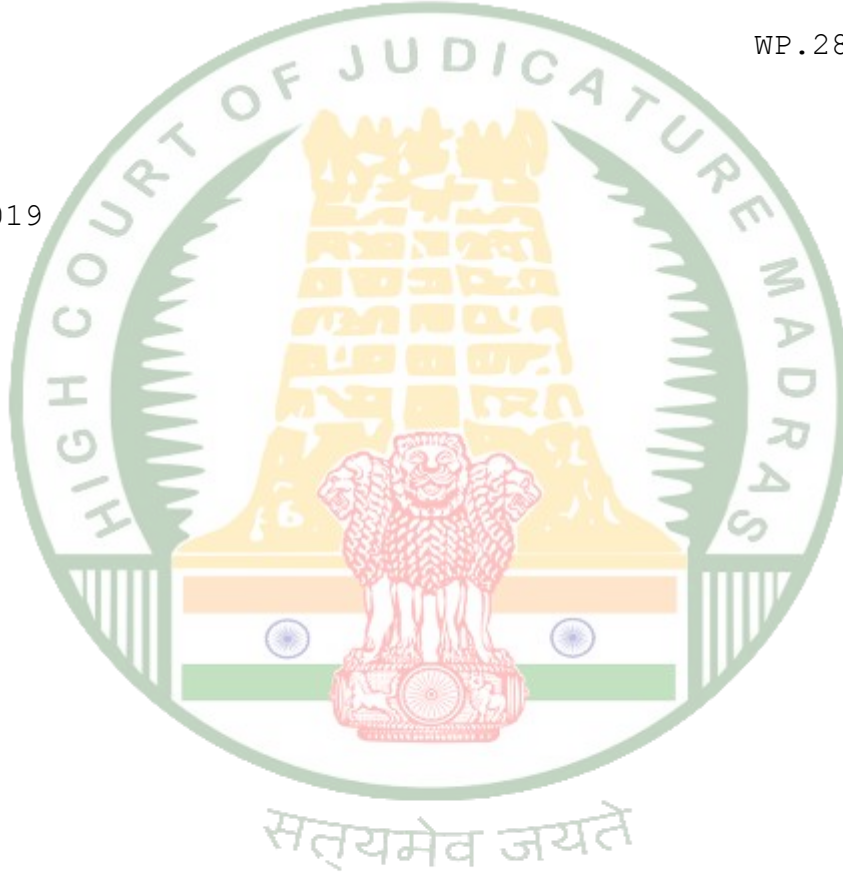
2.The Member Secretary
Chennai Metropolitan Development Authority
No.1, Gandhi Irwin Road
Egmore, Chennai-600 008.

3.The State of Tamil Nadu
Rep. by its Secretary
Housing & Urban Development Department
Fort St.George
Chennai-09.

+1cc to Mr.P.S.Ganesh, Advocate Sr.21388
+1cc to Mr.L.Chandrakumar, Advocate Sr.21808
+1cc to the Government Pleader Sr.22680

WP.28220 of 2018

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srg 6/5/2019



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