



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD)No.14233 of 2018

and

W.M.P. (MD)Nos.12878 and 10489 of 2018

M.Balakrishnammal

... Petitioner

Vs

1.The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam,
Chennai 600 035.

2.The Executive Engineer and
Administrative Officer,
Madurai Housing Board Unit,
Ellis Nagar,
Madurai - 625 016.

3.Manager - Marketing and Service,
Madurai Housing Unit,
Tamil Nadu, Housing Board,
Eillis Nagar,
Madurai - 625 016.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned letter, passed by the 2nd respondent Letter No.MH7/9809/95, dated 20.03.2018 and quash the same as void and illegal and consequently direct the respondents to adjust the amounts deposited already and to collect any other money payable as balance dues and pass such other orders, within respect to the allotment of the house, Flat No.A-26, Thendral Nagar, Shenbagathoppu Road, Rajapalayam, in Virudhunagar District.

For Petitioner : Mr.F.X.Eugene

For Respondents : Mr.M.Mahaboob Athiff
For Mr.R.Janarthanan

**ORDER**

Heard the learned counsel on either side.

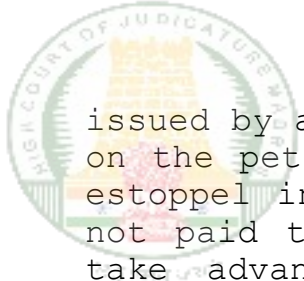
2. The writ petitioner's father Navaneethakrishnan was allotted a flat bearing No.A-26, Thendral Nagar, Rajapalayam, vide order dated 31.07.1995. The allottee namely., the writ petitioner's father was to make an initial deposit of Rs.95,600/-. The tentative cost was fixed at Rs.2,38,900/-. The monthly installment was Rs.2,285/-. It is not in dispute that the said allotment was cancelled in the year 1996. He was also issued an eviction notice. Questioning the same, the petitioner's father filed O.S.No.146 of 1997 before the District Munsif Court, Srivilliputtur. The said suit was dismissed. He filed A.S.No.35 of 2003, on the file of the Principal District Court, Virudhunagar. The said appeal was dismissed for non prosecution. He also later passed away.

3. While so, the third respondent issued the communication dated 06.10.2017, addressed to Navaneethakrishnan/original allottee calling upon him to pay the outstanding due of Rs.8,75,734/- on or before 31.10.2017. The said communication was issued pursuant to G.O.Ms.No.215, Housing and Urban Development, dated 28.09.2012.

4. In the meanwhile, the petitioner had given a representation dated 19.03.2013 calling upon the respondents to revisit the issue of cancellation of allotment. Since the respondents did not take note of the petitioner's representation, she filed W.P.(MD)No.7706 of 2013. This Court by order dated 30.11.2017 directed the respondents to pass orders on her representation. The second respondent by order dated 20.03.2018 declined to grant the writ petitioner's prayer. This order is under challenge in this writ petition.

5. The learned counsel appearing for the writ petitioner laid considerable stress on the communication dated 06.10.2017 issued by the third respondent. The learned counsel for the petitioner states that the petitioner is ready and willing to pay a sum of Rs.8,75,734/- quantified by the respondent board themselves.

6. I am not persuaded by the said submission. As rightly contended by the learned standing counsel appearing for the respondents that when the allotment made in favor of the writ petitioner's father stood cancelled and the attempt of the writ petitioner's father to have the cancellation declared as null and void also ended in vain, the question of revisiting the matter will not arise. It is true that the third respondent has erroneously issued the communication dated 06.10.2017 calling upon the allottee to make some payment as outstanding dues. But then, the petitioner cannot take advantage of the same. This is for more than one reason. The communication was addressed to Navaneethakrishnan who is no more. Merely because by oversight erroneous communication was



issued by a Board employee, that will not by itself confer any right on the petitioner. There is question of applying the principle of estoppel in these cases. In any event, the writ petitioner having not paid the amount pursuant to the said communication cannot now take advantage of the same. Therefore, I find no ground to interfere in the impugned communication. The Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

7. At this stage, the learned counsel appearing for the writ petitioner states that the substantial sum deposited to the credit of the suit instituted by the writ petitioner's father was withdrawn by the respondents. If that be so, that would furnish a separate cause of action. I do not wish to make any pronouncement on that aspect. The right of the petitioner in that regard is left open.

Sd/-

Assistant Registrar (Crl. side)

// True Copy //

Sub Assistant Registrar (CS)

TO

1. The Managing Director,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam,
Chennai 600 035.
2. The Executive Engineer and
Administrative Officer,
Madurai Housing Board Unit,
Ellis Nagar,
Madurai - 625 016.

+1 CC to M/s. MAHABOOB ATHIFF, Advocate in SR-62371
+1 CC to M/s. F.X. EUGENE, Advocate in SR-62373

W.P. (MD) No. 14233 of 2018
23.04.2019

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PK/13.05.2019 : 3P/5C