



1BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.14596 of 2015

Rengaraj

.. Petitioner

Vs.

1. The Registrar,
Office of the Housing Board Registrar Office,
Tamilnadu Housing Board Building,
No.493, Annasalai,
Nandanam, Chennai- 600 035

2. The Deputy Registrar (Housing Board),
The Deputy Registrar's Office,
Madurai Zone, No.15, T.T.C. Depot Opposite,
K.K.Nagar, Madurai- 625 020

3. The Secretary,
M.D.A. - H.S.G. 112, R.M.T.C. Labour,
Co-operative Housing Society,
Alamarathupatti Post,
Dindigul.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents herein to allot any one flat out of the two flats which are lying with the 3rd respondent Housing Board i.e., Flat No.380 and 381 in Transport Nagar Housing Scheme situated at Kalikkampatti Village, Dindigul District in lieu of amount of a sum of Rs.70,000/- payable to the petitioner by the 3rd respondent by considering petitioner's representation, dated 12.04.2014 within the time stipulated by this Court.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader



ORDER

This writ petition is filed for issuing a writ of mandamus to direct the respondent to allot any other Flat within the two Flats which are lying vacant with the third respondent housing board in lieu of the amount of Rs.70,000/- payable to the petitioner by the third respondent.

2.The brief facts that are necessary for the disposal of this writ petition are as follows:

The third respondent promoted a Housing Scheme scheme. The petitioner became the member of the scheme by making a deposit of sum of Rs.16,850/-. It is not in dispute that the petitioner was allotted a housing Flat No.109 and that the petitioner was also depositing the monthly remittance without any default. However, it is the case of the petitioner that the Flat which was allotted to the petitioner became unfit for human living and there were lot of problems in view of poor quality of construction. The petitioner states that he has spent substantial amount by availing loan and the third respondent had promised to reimburse the money which was spent by the petitioner by way of repairing the Flat originally allotted to the petitioner. Since the petitioner was not reimbursed the amounts spent by the petitioner, the petitioner seeks allotment of some other Flat which is available.

3.The petitioner has not produced any records to show that the respondents have promised or accepted to reimburse any amount that had been allegedly spent by the petitioner towards repair and maintenance of the Flat which was allotted to the petitioner. The amount spent by the petitioner towards repairing is not admitted by the respondent.

4.It is the case of the respondent that the building was constructed in a good manner and in good quality and that the buildings were assessed and valued by a Chartered Engineer before they were handed over to the respective allottees. The petitioner was allotted the house on 19.03.2005. It is stated by the respondent that a new Flat cannot be allotted after this length of time. The respondent specifically denied the averments that the petitioner had spent substantial amount towards carrying out repairing works.

5.Having regard to the stand taken by the respondents, this Court is of the view that the contentious issues involving disputed facts in this case, cannot be resolved under Article 226 of the Constitution of India. Hence, this Court is not inclined to entertain this writ petition. It is also open to the petitioner to prefer a complaint before Consumer Forum after collecting substantial evidence to make 3rd respondent responsible for the poor



quality of construction or to approach the civil Court for appropriate relief.

6. With the observations, this writ petition is dismissed. No costs.

WEB COPY

Sd/-
Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

To

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Madurai Zone, No.15, T.T.C. Depot Opposite,
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+1 CC to M/s.SPL GP (SR-103562[F] dated 05/12/2019)

TM

TE : 03/01/2020 : 3P/4C

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