

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.5531 of 2012
and M.P.Nos.1 & 2 of 2012

S.Ganesan
S/o.A.Senthil Kumar
Rep.by his power of Attorney
B.Purushothaman, ... Petitioner

Vs.

1.Tamil Nadu Housing Board,
Rep.by its Managing Director,
Nandanam, Chennai - 600 035.

2.The Executive Engineer &
Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Ashok Nagar Shopping Centre,
Chennai - 600 083.

3.The Executive Engineer,
Sites and Service Division,
Tamil Nadu Housing Board,
Housing Board Complex,
Anna Nagar, Chennai - 600 040.

...

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus to call for the records of the Respondent's resolution No.24/04 dated 30.07.2004 and consequential letter No.B1/11364/86 dated 17.08.2004 and the order in reference No.Ka.Ka.Na.No.B1/11364/86 dated 08.09.2005 passed by the 2nd respondent and quash the same and direct the 2nd respondent to issue the sale deed for plot No.PC-16, M.M.D.A.Colony, Arumbakkam, Chennai in favour of the petitioner.

For Petitioner	: Mr.R.Subramanian for M/s.R.Prabhakar
For Respondent Nos.1 to 3	: Mr.R.Bharath Kumar

ORDER

This writ petition has been filed challenging the resolution No.24/04 dated 30.07.2004 passed by the Tamil Nadu Housing Board and the petitioner has also challenged the consequential letter dated 17.08.2004 and the order dated 08.09.2005 passed by the second respondent and consequently the petitioner has sought for a direction to the second respondent to execute the sale deed for plot No.PC-16, M.M.D.A Colony, Arumbakkam, Chennai in favour of the petitioner.

2.Heard Mr.R.Subramanian for Mr.R.Prabhakar, learned counsel appearing for the petitioner and Mr.R.Bharath Kumar, learned counsel appearing for the respondents.

3.It is the case of the petitioner that he was allotted the aforesaid land on lease cum sale basis by the first respondent by allotment order dated 23.12.1986. It is his case that he has been paying the instalment amounts to the respondents and in view of the default committed by him, the respondents had earlier cancelled the allotment in favour of the petitioner on 01.06.1987. By letter dated 20.11.1983, the petitioner sought for permission to pay the initial deposit. Therefore, the respondents considered the request of the petitioner and revoked the cancellation by its order dated 04.02.1994. According to the petitioner, subsequent to the revocation of the cancellation, the petitioner has been paying the installment amount regularly without committing any default. However, it is his case that arbitrarily and illegally relying upon the earlier default committed by the petitioner, the first respondent once again cancelled the allotment on 17.08.2004. According to him, even as early as on 08.11.2004, the petitioner was willing to pay a sum of Rs.20,77,911/- towards full and final settlement for the purpose of getting a sale deed in his favour.

4.The case of the petitioner is disputed by the respondents. According to them, without authority, the Executive Engineer had issued a letter to the petitioner revoking the earlier cancellation of allotment. According to them, as on date, a sum of Rs.1,17,65,402.01 is due and payable by the petitioner. In view of the default committed by him, according to them, compound interest at the rate of 12% is payable by the petitioner. However, as seen from the above, the petitioner has disputed the said demand and he states that he is not liable to pay compound interest nor liable to pay any interest as he has been paying the instalment amount regularly as refixed by the respondents pursuant to the revocation order.

5.This Court has perused the impugned orders dated 17.08.2004 and 08.09.2005. It is seen that immediately on receipt of the impugned order dated 10.12.2004, the petitioner by his letter dated 27.12.2004 had undertaken to remit the payment as demanded under the impugned order dated 10.12.2004. However, by the other impugned order dated 08.09.2005, the respondent has called upon the petitioner to vacate his premises. Accordingly, the impugned order dated 08.09.2005 has not considered the fact that the petitioner was ready and willing to pay the sum of Rs.21,07,348/- to the respondents as demanded in the earlier impugned order dated 10.12.2004. Without considering the same, the respondent has passed the subsequent impugned order dated 08.09.2005. No reasons have been given as to why the earlier impugned order dated 10.12.2004 passed by the respondent has not been considered. It is the contention of the petitioner that he is not a defaulter subsequent to the revocation order passed by the respondents and that he has been paying the instalment amount on the due dates and he was also willing to comply with the impugned order dated 10.12.2004. However, it is the case of the respondents that the petitioner is a defaulter and by letter issued by the executive engineer, who did not have authority, the cancellation of allotment was revoked in favour of the petitioner. It is also their case that compound interest is liable to be paid by the petitioner. As seen from the impugned order dated 08.09.2005, none of these contentions have been considered and by a non speaking order, the allotment of the petitioner has been cancelled.

6.For the foregoing reasons, this Court is of the considered view that the second respondent has passed the impugned orders without adhering to the principles of natural justice.

7.In the result, the impugned order dated 08.09.2005 is hereby quashed and the matter is remanded back to the first respondent for fresh consideration and the first respondent shall pass final orders in accordance with law, after giving sufficient opportunity to the petitioner to place all his submissions and evidence including granting him personal hearing within a period of twelve weeks from the date of receipt of a copy of this order.

With the aforesaid directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

- 1.The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
- 2.The Executive Engineer &
Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Ashok Nagar Shopping Centre,
Chennai - 600 083.
- 3.The Executive Engineer,
Sites and Service Division,
Tamil Nadu Housing Board,
Housing Board Complex,
Anna Nagar, Chennai - 600 040.

+1cc to M/s.R.Bharath Kumar, Advocate Sr.16882
+1cc to M/s.R.Prabakar, Advocate Sr.16033

W.P.No.5531 of 2012
and

M.P.Nos.1 & 2 of 2012

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srg 01/06/2020

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