

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2020

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.24044 & 24049 of 2019
and W.M.P.Nos.23869 & 23873 of 2019

P.Dhamodaran ...Petitioner in W.P.No.24044/2019

C.Govindhaswamy ...Petitioner in W.P.No.24049/2019

vs

1. The Managing Director,
Tamil Nadu Housing Board,
Mount Road,
Nandhanam,
Chennai.

2. The Executive Engineer and
Administrating Officer,
Tamil Nadu Housing Board,
Vellore Housing Unit,
Sathuvachari,
Vellore.

....Respondents in both the W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records made in the impugned proceedings of the 1st respondent in minutes of the sale confirmation meeting dated 01.04.2019, and of the 2nd respondent in Letter No.A-2/2540/18 & Letter No.A-2/2539/18 respectively dated 09.07.2019 and quash the same and direct the respondents to confirm the bid of the petitioner for the shop No.VR151(RR) in Phase II of Tirupattur Housing Unit and Shop No.C2A (VR115) in SMT Scheme of Sholingar Housing Unit respectively.

For Petitioners : Ms.S.Kala

For Respondents : Mr.R.Bharath Kumar,
Standing Counsel for R1 and R2.

COMMON ORDER

These two writ petitions are filed challenging the order of the 2nd respondent both dated 09.07.2019, wherein and whereby, the respective writ petitioners were informed that their bid is rejected and that they are entitled for refund of the amount paid by them viz., 25% of the bid amount or they can participate in the future auction by allowing the Housing Board to retain the said sum in respect of future auction proceedings.

2. It is seen that the 2nd respondent issued a notification dated 28.10.2019 inviting sealed tender for the sale of commercial plots. These petitioners participated in the tender process and submitted their respective bids for purchasing the respective plots. They also paid 25% of the total bid amount as the earnest money deposit. However, the Housing Board has chosen not to confirm the bid on the reason that the notification inviting tender was made only in Tamil daily and not in English daily as well. Therefore, the Housing Board decided to go for re-auction and accordingly, communicated these petitioners through the impugned orders as referred to supra.

3. Challenge made against the said communication in these writ petitions is mainly on the ground that these petitioners are not at fault, if the Housing Board failed to effect the paper publication in English daily as well. Therefore, it is contended that the Housing Board is not justified in rejecting the petitioners bid. It is also contended by the learned counsel for the petitioners that in some cases, the Housing Board has confirmed the sale, even though the notification was made, in those cases, only in one newspaper.

4. On the other hand, the learned counsel appearing for the Housing Board submitted that as per the norms, the notice of tender cum auction should be published in the newspapers in Tamil and English and therefore, in the case of the petitioners, the Housing Board has chosen to go for re-auction, since such notification was issued only in Tamil daily. He also submitted that the petitioners' interest is not at all affected in any manner as they are entitled to participate in the fresh auction.

5. Upon hearing both sides and perusing the materials placed before this Court, it is evident that though these petitioners have participated in the tender process and submitted their tender and even though their bid amount seems to have been found as the highest one, admittedly, no confirmation of sale was issued to these petitioners by the Housing Board. Unless the sale confirmation is issued in favour of the petitioners, I am of the view, they cannot have any vested right to claim that the Housing Board should sell the property based on their bid

amount. No doubt, it is pointed out by the learned counsel for the petitioners that on previous occasions, the Housing Board in some cases proceeded to confirm the bid in favour of such of those persons where notification was issued only in Tamil daily. Needless to say, if the some mistake is committed, assuming to be true as claimed by the petitioner, the same cannot be allowed to perpetuate, when the norms requires publication of notification in Tamil and English daily. Certainly, the petitioners are not going to be affected in any manner as they are very well entitled to participate in the fresh auction. The Housing Board has also come forward to refund the earnest money deposit of the petitioners or to retain the said amount, for the petitioners to participate in the fresh auction as well. Therefore, it is is left open to the petitioners to choose either of the above two suggestions made by the Housing Board.

6. When such being the factual position, I do not think that the petitioners are justified in approaching this Court by way of these writ petitions challenging the impugned communications. Thus, I find no merits in these writ petitions. Accordingly, the Writ Petitions are dismissed. If the petitioners choose to receive back the earnest money deposit already made by them, the Housing Board shall refund the same with interest at the rate of 6% from the date of receipt of the same till the date of payment. No costs. Connected M.Ps. are closed

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Managing Director,
Tamil Nadu Housing Board,
Mount Road,
Nandhanam,
Chennai.
2. The Executive Engineer and
Administrating Officer,
Tamil Nadu Housing Board,
Vellore Housing Unit,
Sathuvachari,
Vellore.

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+2ccs to Mr.R.Bharath Kumar, Advocate, S.R.No.19522,19523
+2ccs to M/s.S.Kala, Advocate, S.R.No.19115,19114

W.P.Nos.24044 & 24049 of 2019

SR(CO)
KKV/20/07/2020



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