

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.01.2020

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.28009 of 2019

G.Venkatagopal

.. Petitioner

..Vs..

1. The Govt. of Tamil Nadu,
Rep. By Secretary,
Housing & Urban Development,
Fort St.George,
Chennai - 600 009.
2. The Tamil Nadu Housing Board,
Rep by Managing Director,
#332 Anna Salai,
Nandanam,
Chennai - 600 035.
3. The Chief Engineer,
Tamil Nadu Housing Board,
KK Nagar Division,
Ashok Nagar Shopping Complex,
Chennai - 600 083.
4. The Executive Engineer,
Tamil Nadu Housing Board,
KK Nagar Division,
II Floor, Wood Working Unit Division,
Housing Board Shopping Complex,
Anna Nagar West,
Chennai - 600 101.
5. The Director of Town and Country Planning,
807, Anna Salai, Chennai -2.
(R5 impleaded vide order dated 25.11.2019
made in WMP No.31771 of 2019
in WP.No.28009 of 2019)

..Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to hand over the plot in Alappakam Phase I, MIG bearing Plot No.M2, measuring 2412 sq.ft. Which was allotted vide letter date 10.02.2012 bearing No.KKN B1/5488/11.

For Petitioner : Mr.A.Karthick for
MR.T.Jayaraman

For Respondents : Mr.N.Inbanathan,
Additional Government Pleader
Mr.R.Bharath kumar, (for R2 and R4)
Standing counsel

ORDER

The writ petition had been filed in the nature of mandamus seeking a direction to the respondents to hand over the plot in Alappakam Phase I, MIG bearing Plot No.M2, measuring 2412 sq.ft. which was allotted by letter dated 10.02.2012 bearing No.KKN B1/5488/11.

2. In the affidavit filed in support of the writ petition, it had been stated that the petitioner had applied for allotment of a residential plot under the Area Development Scheme, Alappakam Phase I, which was advertised by the Tamil Nadu Housing Board on 19.09.2011.

3. The petitioner had filed an application in Appl.No.58868 on 14.10.2011. After the selection process, he also received a letter dated 20.12.2011 bearing No.B1/5488/11 informing that he had been temporarily allotted Plot No.M2, measuring 2,412 sq.ft with an approximate cost of Rs.12,06,000/-. The entire extent of the lay out was 17,700 sq.mts. The residential Plot area was 10118.01 sq.mt. The shop area was 424.48sq.mt. The road area was 4947.42 sq.mt. The area of the Park was 2210.09 sq.mt. The petitioner was informed that he must make an initial deposit amount of Rs.4,82,400/- within 21 days. The petitioner claimed that he had paid the said deposit amount on 06.01.2012 and was also issued receipt no.K01-17013. The petitioner had been seeking issuance of the permanent allotment letter.

4. The 3rd respondent by letter dated 10.02.2012, issued permanent allotment informing the petitioner that he had to submit a Lease cum Sale Agreement. It is also informed that EMI of Rs.11,235/- per month would become payable from March 2012 and must paid before the 10th of every succeeding month. The petitioner claimed that he had paid the said EMI from March 2012 to July 2017 without default. It was stated that there were several plots which was not been allotted and it was claimed that alternative plot would be allotted. However, the petitioner had not been granted alternative plot. He issued a letter dated 01.04.2019 to the 4th respondent seeking the said allotment. Under these circumstances that the writ petition had been filed.

5. An affidavit of undertaking has been filed by the 4th respondent namely the Executive Engineer & Administrative Officer, Tamil Nadu Housing Board. In the affidavit sworn by Sengol Murugan, apart from other aspects, it has been stated as follows:

"2. I respectfully submit that the Tamil Nadu Housing Board has proposed to develop 62 Nos. of MIG plots comprised in S.No.56/1. 56/2 & 57 of Alapakkam Village. Accordingly a layout was prepared and approved by the Board vide T.P.No.54/2010 and same was submitted in the DTCP / Chengalpet for statutory approval. In the meantime the proposal for 62 plots was approved by the Board in B.R.No.4.04 dated 14.07.2011. Subsequently, 49 plots were allotted to public through Lot conducted on 07.12.2011.

3. I respectfully submit that DTCP / Chengalpet has returned the layout vide its letter dated 10.09.2014. Since the land is situated within a distance of 60 meters from the adjacent Burial Ground, which was subsequently created by nearby General public. Government for directing the DTCP to approve the proposed layout. As such a revised layout was submitted in the DTCP / Chengalpet. After scrutinizing the layout the DTCP / Chengalpet has approved the road pattern of the proposed layout and directed to hand over the roads, park and public purpose area to the local body through a Gift deed. Layout for the plots will be released only after handing over the Roads, Park and Public purpose area.

4. I respectfully submit that the unauthorized persons excavated the earth subsequently in the site under reference and thereby at present the roads and park area is lying about 6 to 10 feet below the existing road levels. Hence, an estimate has been prepared for filling the low lying area and for the development works for the above said layout. The same is submitted in the Board for approval and it is under scrutiny. It is further submitted that the tentative cost only intimated to the allottees and hence on completion of the development work the final cost has to be intimated accordingly.

5. I humbly submit that after the approval of the development estimate, Tender has to be float and a contractor has to be fixed for executing the development works.

6. I respectfully submit that I do hereby undertake that the plot allotted to the petitioner herein will be handed over to him after the completion of all development works, approximately within a period of 11 months."

6. Heard Mr.M.Kardhir, learned counsel for the petitioner, Mr.N.Inbanathan, learned Additional Government Pleader for R1 and Mr.R.Bharath Kumar, learned Standing counsel for R2 and R4.

7. A categorical undertaking has been given in the affidavit filed today that the plot allotted to the petitioner would be handed over to the petitioner after completion of development work which would take about eleven months time.

8. Recording the affidavit of undertaking given by the 4th respondent, this writ petition is disposed of. It is hoped that the 4th respondent would abide by the undertaking and there would not be any breach either in allotting the plot or on the time limit which he seeks for development of work. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Secretary, Government of Tamil Nadu, Housing & Urban Development, Fort St.George, Chennai - 600 009.
2. The Managing Director, Tamil Nadu Housing Board, #332 Anna Salai, Nandanam, Chennai - 600 035.
3. The Chief Engineer, Tamil Nadu Housing Board, KK Nagar Division, Ashok Nagar Shopping Complex, Chennai - 600 083.
4. The Executive Engineer, Tamil Nadu Housing Board, KK Nagar Division, II Floor, Wood Working Unit Division, Housing Board Shopping Complex, Anna Nagar West, Chennai - 600 101.
5. The Director of Town and Country Planning, 807, Anna Salai, Chennai -2.

+1 cc to M/s.T.Jayaraman, Advocate Sr.No. 6533
+1 cc to Mr.R.Bharathkumar, Advocate Sr.No.6642
+1 cc to The Government Pleader Sr.No. 6684

AKM/02.03.2020/4P-9C /

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