

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.11039 of 2017 and  
W.M.P. No.11990 of 2017  
(Heard through VC)

M.Saravanakumar

... Petitioner

Vs

- 1.The Managing Director  
Tamil Nadu Housing Board  
Nandanam, Chennai - 600 035
- 2.The Executive Engineer & Ad.O.,  
KK Nagar Division, TNHB,  
Ashok Nagar, Chennai - 600 083
- 3.The Manager  
Sale (M) Service  
KK Nagar Division, TNHB  
Ashok Nagar, Chennai - 600 083

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the issue of the impugned order in Lr.No.KKN/B2/6200/2000 dated 09.12.2014 passed by the third respondent and the impugned letter No.K.K.N./B2/6200/2000 dated 05/2016 passed by the third respondent and consequently impugned Letter No.K.K.N/B2/6200/2000 dated 09.08.2016 passed by the second respondent and quash the same.

For Petitioner : Mr.G.Mutharasu

For RR 1 to 3 : Mr.R.Bharath Kumar

ORDER

The petitioner has sought for a writ of certiorari to call for the records pertaining to the impugned order in Lr.No.KKN/B2/6200/2000 dated 09.12.2014 passed by the third

respondent and the impugned letter No.K.K.N./B2/6200/2000 dated 05/2016 passed by the third respondent and consequently impugned Letter No.K.K.N/B2/6200/2000 dated 09.08.2016 passed by the second respondent and quash the same.

2. The petitioner is one of the allottees, who got allotted a flat bearing No.21/2 consisting of 580 sq.ft. in Tambaram FTZ Phase-V through a random lottery method. He was also given a provisional allotment letter on 23.05.2014 by the second respondent vide letter No.K.K.N./B2/6200/00. As per the public notification dated 30.10.2013, the total cost of the flat allotted to the petitioner was Rs.23,30,000/- and an advance of Rs.9,32,000/- has to be paid. The petitioner also had paid the advance amount of Rs.9,32,000/- on 24.06.2014 vide Receipt No.K01-25023 and thereafter, the petitioner had to pay equated monthly installments of Rs.30,247/-, the receipts of which are also enclosed in the typed set of book filed along with the affidavit.

3. On 28.08.2014, the respondent also had issued Handing Over/Taking Over Certificate and on the same day, a letter to the effect of taking over possession, was also issued by the third respondent. On 21.11.2014, the third respondent issued a letter of permanent allotment of Flat bearing No.21/2 in Tambaram FTZ Phase-V in favour of the petitioner, mentioning the total cost as Rs.23,30,000/-, advance payable as Rs.9,32,000/- and the monthly EMI as Rs.30,247/-, which was payable on or before 15th of every month.

4. Surprisingly, on 09.12.2014, another letter was issued by the third respondent in Letter No.K.K.N/B2/6200/2000, which is the replica of the earlier permanent allotment order excepting the fact that the total cost was enhanced to Rs.24,93,100/- and the EMI amount was increased to Rs.33,775/-. The letter appears to have been issued unilaterally, without giving an opportunity to the petitioner before revising or enhancing the amount. Shocked by the enhancement amount without even an intimation, the petitioner had made several representations to the respondents about the same. There was no response from the respondents, however, by the impugned letters dated 23.05.2016 and 09.08.2016, the petitioner was intimated about the payment of revised EMI of Rs.33,375/- and a demand for the difference in amount was made, which are now impugned in the writ petition.

5. The Tamil Nadu Housing Board also has filed a counter affidavit contending that the revision was based on the financial year, as the previous amount was fixed as a tentative cost.

6. Heard both sides and perused the materials available on record.

7. The learned counsel for the petitioner also had filed an additional affidavit by the petitioner pointing out that even pending the proceedings, this court had directed only the earlier EMI to be paid by the petitioner. The respondents have not mentioned anywhere in their counter affidavit also that before the revision of the amount, the same was intimated to the petitioner. Curiously, as pointed out earlier, the communication dated 21.11.2014 was a permanent allotment order, based on which the cost of the flat was fixed. When the petitioner had applied through the RTI Act seeking information about the cost of the flat, as to whether it is tentative or permanent, the Public Information Officer, K.K.Nagar Circle, has mentioned that the cost quoted in the permanent allotment order is the permanent cost. The above contradictions among the officials of the respondents only go to show that there was no coordination between them and they have issued the impugned notice at random, without application of mind. The irresponsible act of the respondents has made the petitioner rush to this court, to seek a remedy, despite the respondent issuing a permanent allotment letter with specific amount as cost of the EMI payable, which is also confirmed by them in the RTI proceedings. As admittedly, the respondents have passed the impugned order, in violation of the principles of natural justice the impugned order is liable to be set aside.

8. Accordingly, the writ petition is allowed. The impugned order in Lr.No.KKN/B2/6200/2000 dated 09.12.2014 passed by the third respondent and the impugned letter No.K.K.N./B2/6200/2000 dated 05/2016 passed by the third respondent and consequently impugned Letter No.K.K.N/B2/6200/2000 dated 09.08.2016 passed by the second respondent, are set aside. No costs. Consequently, the connected writ miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Managing Director  
Tamil Nadu Housing Board  
Nandanam, Chennai - 600 035

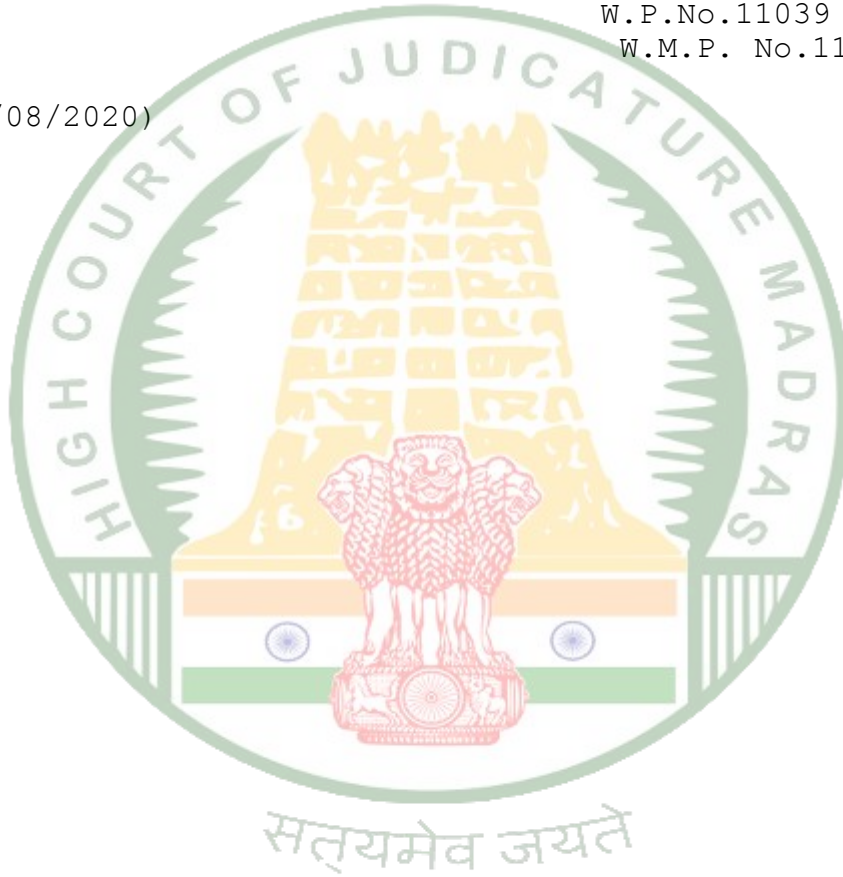
2. The Executive Engineer & Ad.O.,  
KK Nagar Division, TNHB,  
Ashok Nagar, Chennai - 600 083

3.The Manager  
Sale (M) Service  
KK Nagar Division, TNHB  
Ashok Nagar, Chennai - 600 083

+ lcc to Mr.G.Mutharasu, Counsel for the Petition, Sr.No.26202

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