



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2020

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THE HONOURABLE **MR.JUSTICE G.R.SWAMINATHAN**

W.P. (MD)No.8479 of 2020
and W.M.P. (MD)Nos.7862 to 7864 of 2020

A.Ponshanthi

... Petitioner

Vs.

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

2.The Superintending Engineer,
Tamil Nadu Housing Board,
Madurai Circle, Ellis Nagar, Madurai-16.

3.The Executive Engineer Cum Administrative Officer,
Tirunelveli Housing Unit, Kamarajar Salai,
Anbu Nagar, Tirunelveli-627 011. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Letter No.R3/3356/11 MIGC 370 dated 06.01.2015 on the file of the respondent No.3 and the impugned minutes dated 20.03.2019 and the consequential impugned order in Memo.No.Allot2.3/29636/2015 dated 11.06.2019 on the file of the respondent No.1 and quash the same as illegal and consequently for a direction, directing the respondents to re-allot the Plot No.MIG C 370 in Sangaraperi Small and Medium Town Tuticorin District to the petitioner upon receiving the arrears of monthly installments including all the additional charges in one lumpsum from the petitioner within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathy Roy

For Respondents : Mr.M.Mahaboob Atthiff

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent Housing Board.



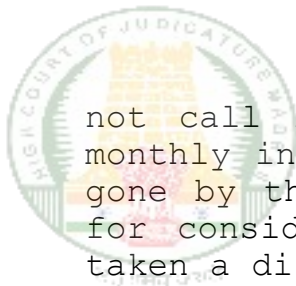
2.The writ petitioner was allotted the petition mentioned plot vide letter dated 03.11.2011 issued by the third respondent. As per the terms of the allotment the plot value was fixed at Rs.7,86,300/-. The petitioner was to pay a sum of Rs.2,75,200 as advance amount and the balance amount of Rs.5,11,100/- was to be paid in monthly installments of Rs.11,060/-, for a period of 5 years. The writ petitioner paid the advance amount of Rs.2,75,200/- on 08.11.2011. The petitioner was not prompt in paying the monthly installments. Therefore, her allotment came to be canceled on 0.01.2015. The petitioner applied to the revocation committee for revoking the said cancellation. The revocation committee by order dated 20.03.2019 rejected the petitioner's request and confirmed the earlier cancellation.

3.The petitioner has been moving the respondents ever since and also filing writ petitions before this Court. When W.P.(MD)No.7167 of 2020 filed by the petitioner was listed before me on 09.07.2020, the learned Standing Counsel produced a copy of the order passed by the Revocation committee. Recording the said statement, the said writ petition was dismissed leaving open the petitioner's right. Availing the liberty given by this Court, the present writ petition has been filed. In this writ petition, the petitioner has challenged not only the primary order of cancellation but also the consequential proceedings including the decision taken by the revocation committee.

4.The respondents strongly opposed the prayer made by the writ petitioner. The learned Standing Counsel points out that the writ petition itself may not be maintainable in view of the non-statutory nature of the contract. He also points out that the writ petitioner being a allottee was obliged to comply with the terms of the allotment. It is beyond dispute that the writ petitioner was not prompt in remitting the monthly installments. Since the petitioner had admittedly defaulted, the Housing Board cannot be faulted for having cancelled the allotment. He would also point out that the Revocation Committee cannot show any undue generosity. The Revocation Committee is obliged to adhere to the norms laid down by the Board. Applying those norms, the Revocation Committee felt that the petitioner's proposal for revocation could not be accepted. Since the market value of the plot has now gone up, the respondents are entitled to bring the plot to sale in public auction. The petitioner can of course take part in the auction. According to the learned Standing Counsel, the writ petition deserves a summary dismissal.

5.I carefully considered the rival contentions and went through the materials on record.

6.I sustain the stand of the learned counsel for the respondent
<https://hccourt.gov.in/> the original order of cancellation dated 06.01.2015 does



not call for any interference. The petitioner has not paid the monthly installments and therefore, the Board Officials have merely gone by the terms of the allotment. Now the question that arises for consideration is whether the Revocation Committee should have taken a different view.

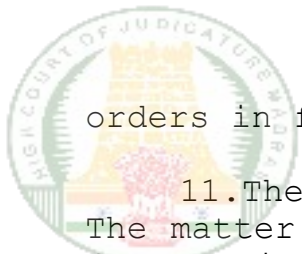
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7.The petitioner's counsel states that the petitioner's husband is not with her. The petitioner is having one special child 'F.Praveen'. The disability certificate issued in Form IV in respect of the child is enclosed in the typed set of papers. The petitioner's child is said to be suffering from severe mental retardation.

8.The petitioner's counsel states that since the petitioner as a single parent had to take care of her special child, there was lapse on her part in paying the monthly dues promptly. Be that as it may the petitioner had taken a demand draft for a sum of Rs.5,82,886/- on 23.05.2018 and went before the Revocation Committee. It is seen that even before the order of cancellation was passed, the petitioner had paid a sum of Rs.4,85,340/-. The Revocation Committee could have taken note of the fact that the petitioner had already paid a sum of Rs.4,85,340/- and that she had also enclosed demand draft for a sum of Rs.5,82,886/-. In view of her tragic domestic circumstances and difficulties, the case definitely called for a special consideration. The very purpose of having a Revocation Committee is to provide relief in such hard cases. The petitioner has been all along working in Chennai. The petitioner's native place is Tirunelveli. Since the petitioner is reaching the age of superannuation, she wants to settled down in Tirunelveli with her special child. These considerations ought to have weighed with the Revocation Committee.

9.As rightly pointed out by the learned counsel appearing for the petitioner, these circumstances were not taken into account by the Revocation Committee. The order of the Revocation Committee is rather cryptic. Therefore, I have no hesitation to set aside the order dated 20.03.2019 and the consequential order dated 11.06.2019. The matter is remitted to the file of the Revocation Committee. It is open to the Revocation Committee to put the petitioner on appropriate terms. It is seen that the penalty can be levied even upto 30%.

10.The petitioner's counsel states that the petitioner is willing to pay entire consideration amount and also interest for the delayed payment. The petitioner is also willing to pay 30% as the penalty amount. The plot value was fixed at Rs.7,82,300/-. Therefore, the petitioner can even be called to pay a sum of Rs.2,60,000/- as penalty amount. The petitioner has already paid a sum of Rs.4,85,340/- The balance comes to Rs.3, 01,000/-. Of course interest for the intervening period is also there. The Revocation Committee certainly take into account all these factors and pass



orders in favour of the petitioner.

11. The original order of cancelation is not interfered with. The matter is remitted back to the file of the Revocation Committee for passing fresh orders in the light of observations made in this order. The Revocation Committee will pass final orders within a period of twelve weeks from the date of receipt of a copy of this order. The writ petition is partly allowed, on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Writs)

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Sub Assistant Registrar(CS)

gns

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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

2. The Superintending Engineer,
Tamil Nadu Housing Board,
Madurai Circle, Ellis Nagar,
Madurai-16.

3. The Executive Engineer Cum Administrative Officer,
Tirunelveli Housing Unit, Kamarajar Salai,
Anbu Nagar, Tirunelveli-627 011.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-18656[F] dated
01/10/2020)

W.P. (MD)No.8479 of 2020
30.09.2020

SJ(CO)

TR(21.10.2020) 4P 5C