



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10998 of 2011

M.Yogalakshmi
W/o.(late) K.Muthuvel

... Petitioner

Vs.

1. The Tamil Nadu Housing Board,
Rep. by its Managing Director,
No.493, Anna Salai,
Nandanam, Chennai-600035.
2. The Tamil Nadu Housing Board,
Rep. by its Allottees' Service
Manager,
Besant Nagar Division,
Dr. Muthulakshmi Salai,
Adayar, Chennai-600020.
3. The Tamil Nadu Housing Board,
Rep. by its Secretary @ Employees' Officer,
No.493, Anna Salai,
Nandanam, Chennai-600035.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to refund the forfeited amount of Rs.1 lakh, which was paid as 'deposit' in respect of "Flat No, H.40/F2 in 102 H.I.G Scheme at Thiruvanmiyur Extension' - which was allotted to petitioner's (late) husband or alternatively a Flat may be allotted for the same cost after adjusting the deposit of Rs. 1/- Lakh available with the respondents - in the vicinity of the flat already allotted to him.

For Petitioner : Mr.P.Haribabu

For Respondents : Mr.R.Bharath Kumar



O R D E R

The relief sought for in the present writ petition is to direct the 1st respondent to refund the forfeited amount of Rs.1 lakh which was paid as 'deposit' in respect of "Flat No, H.40/F2 in 102 H.I.G Scheme at Thiruvannamiyur Extension' - which was allotted to petitioner's (late) husband or alternatively a Flat may be allotted for the same cost after adjusting the deposit of Rs. 1/- Lakh available with the respondents - in the vicinity of the flat already allotted to him.

2. The petitioner states that her husband Late.Mr.K.Muthuvel was working in the Police Department and retired as Additional Superintendent of Police and died on 02.02.2011. The husband of the writ petitioner applied for allotment of a flat under High Income Group in the Respondents Board in Besant Nagar Division, Adayar Division, Chennai-600020 through Hire Purchase System.

3. The grievances of the petitioner is that the allotment was made under the Hire Purchase System, determining the cost of the Flat as Rs.6,96,386/-. The 2nd respondent issued a letter of cancellation, stating that the husband of the petitioner has not paid the amount as per the allotment order in full and further, the attendant forfeiture is also effected. The petitioner states that on 04.03.1996, the husband of the writ petitioner paid a sum of Rupees One Lakh to the respondents.

4. Perusal of the allotment order, which is enclosed in Page No.6 of the typed set of papers along with the writ petition dated 09.11.1995, reveals that the purchase was not under the Hire Purchase System but under Outright purchase system. Therefore, the petitioner has wrongly proceeded with the writ petition on the ground that the allotment was made under the Hire Purchase System. The order of allotment indicates that the allotment is made in favour of the husband of the writ petitioner under Outright purchase system, giving the preference of the allotment of over Hire Purchase System.

5. Thus, it is clearly states that the Firm Cost of the Flat is to be paid within one month from the date of receipt of allotment letter, failing which, the allotment will be cancelled straight way without any further intimation to the allottee. Accepting the terms and conditions of the allotment, the husband of the writ petitioner paid the amount. However, the petitioner herself has stated that the payment was made only in the year 1996 beyond the period of one month as contemplated under the allotment letter dated 09.11.1995. Therefore, the respondents have invoked the forfeiture clause and forfeited a sum of Rs.1,00,000/-



6. The learned counsel for the petitioner states that the husband of the writ petitioner approached the Government in the year 1999 and the Government also permitted the husband of the petitioner to pay the Firm cost by installments. Thus, the forfeited amount is to be refunded to the petitioner.

7. The learned counsel appearing on behalf of the respondents / Housing Board objected the said contentions by stating that the allotment was made on Outright purchase system and as per the allotment order, the husband of the petitioner ought to have paid the entire Firm cost within a period of one month from the date of receipt of the allotment letter. Admittedly, the husband of the petitioner failed to pay the cost within a period of one month and paid a sum of Rupees One Lakh only on 04.03.1996, beyond the period stipulated in the allotment letter. Thus, the respondents invoked the forfeiture clause and there is no infirmity as such.

8. Beyond all the issues raised between the parties, the allotment order was issued in the year 1995 in the name of the husband of the petitioner. The husband of the petitioner paid a sum of Rs.1,00,000/- in March 1996. The Housing Board also invoked the forfeiture clause during the relevant point of time. The writ petitioner filed the present writ petition after the demise of her husband and after a lapse of about 15 years from the date of allotment and 14 years from the date of payment of the amount.

9. Though the petitioner states that the intimation regarding the forfeiture was given in the year 2010, this Court is of the considered opinion that the husband of the petitioner as well as the petitioner would have been aware of this factum a long before. Even otherwise also, the forfeiture clause was invoked based on the terms and conditions stipulated in the allotment order and there is no infirmity as such.

10. With these observations, the Writ Petition fails and stands dismissed. No costs.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Jeni/Kak



To

1. The Managing Director,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai-600035.
2. The Allottees' Service Manager,
The Tamil Nadu Housing Board,
Besant Nagar Division,
Dr. Muthulakshmi Salai,
Adayar, Chennai-600020.
3. The Secretary @ Employees' Officer,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai-600035.

+1cc to Mr.P.Haribabu, Advocate, S.R.No.58366

W.P.No.10998 of 2011

RLD(CO)
SU(26/11/2021)