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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. NO. 16869 OF 2011

AND

M.P.NO.1 OF 2011

S. Loganathan

... Petitioner

-VS-

1. The Secretary to Government,
Tamilnadu Housing & Urban
Development Board,
Fort St. George,
Chennai - 600 009.

2. The Chairman cum Managing Director,
Tamilnadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai - 600 005.

3. The Estate Officer - 4,
Tamilnadu Slum Clearance Board,
Teynampet,
Chennai - 600 018.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of writ of Certiorarified Mandamus to call for the records in impugned order dated 01.03.2011 made in G.O.Ms.No.70 Housing & Urban Development Department, passed by the first respondent, quash the same and further direct the respondent to fix the government rate for the petitioners' allotted land at Tilak Street, Ramakrishnapuram, T.Nagar, Chennai-17 at the guideline value prevailed in the year 1993.



For Petitioner : Mr.P.Srinivasan

For Respondents : Mr.K.M.D.Muhilan
Government Advocate for R1

: Mr.S.Prabhu for R2 & R3

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O R D E R

The order, dated 01.03.2011, passed by the first respondent, rejecting the appeal submitted by the petitioner, is under challenge in the present Writ Petition.

2.Admittedly, the petitioner was allotted with a land measuring 200 sq.ft. under Ramakrishnapuram Scheme by the Tamil Nadu Slum Clearance Board. The grievance of the writ petitioner is that the order of allotment was issued by the respondents in proceedings dated 22.02.1993. The fact remains that the petitioner was in occupation of the said portion of the land even prior to the allotment. However, free patta was not granted in favour of the petitioner and the land was taken over by the Tamil Nadu Slum Clearance Board and an allotment order was passed in favour of the petitioner in the said proceedings dated 22.02.1993.

3.The learned counsel for the petitioner reiterated that the allotment was granted considering the entitlement of the petitioner and therefore, the land cost must be fixed based on the date of allotment. Contrarily, the respondents have fixed the land cost of the year 2003 when a request was made by the petitioner to execute a sale deed in favour of the petitioner. Thus, the petitioner is constrained to move the present writ petition.

4.The contention of the petitioner is that the land cost was fixed in a different manner in respect of the similarly placed persons, who got allotment in the adjoining places. Thus, the petitioner alone has been discriminated by the respondents and therefore, a direction is to be issued to accept the land cost of the year 1993 during the period in which the allotment order was passed by the respondents in favour of the petitioner.



5.The learned counsel for the writ petitioner solicited the attention of this Court with reference to the allotment made in the year 1994 in favour of the third parties. Further, he has relied on the sale deed executed in favour of some other third parties in the year 2008. Relying on the said documents, it is contended that the land cost of the year 1993 must be fixed as far as the petitioner is concerned and the exorbitant land cost and the interest imposed subsequently are untenable. These grounds in the appeal filed by the petitioner were not even considered by the first respondent Government.

6.Per contra, the learned Government Counsel appearing on behalf of the respondent Tamil Nadu Slum Clearance Board objected the contentions by stating that it is true that an allotment order was passed in favour of the petitioner and an extent of 200 sq.ft. of land was allotted in the name of the petitioner. Admittedly, the petitioner is in possession and enjoyment of the said portion of the allotted land and there was no request made during the relevant point of time for the execution of sale deed and the petitioner continued as an allottee. When an application was filed by the petitioner to execute the sale deed, then, the authorities determined the land cost and communicated the same, enabling the petitioner to pay the land cost for the purpose of execution of the sale deed. The land cost fixed was Rs.1,318/- per sq.ft., that was the guideline value of the year 2002. It is further contended that an extent of 1662.5 sq.ft. of land was allotted in total in favour of four persons and 215 sq.ft. of pathway was also allotted for the exclusive usage of the four allottees.

7.It is contended by the Tamil Nadu Slum Clearance Board that the site inspection to the petitioner's residence in Chennai, T.Nagar, Ramakrishnapuram Scheme, Plot No.2, was made and it was reported that Mr.Sambandam, S/o.Mahadevan, has expired and presently, their legal heirs Mr.Loganathan, Mr.Yuvaraj and Mr.Sathyanarayanan are residing in the plot. The Board is not sure if there are any other legal heirs other than the persons stated above. The consideration amount for Plot No.2 is a sum of Rs.5,47,959/-, which was collected by the Board towards the principal amount. However, the allottee has not paid the interest amount of Rs.20,16,780/- calculated up to February, 2021, and the said interest amount is to be collected. It is contended that the legal heirs, who are now residing



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therein, did not approach the Board with relevant documents regarding their residence in the allotted plot. Thus, the Board has to execute sale deed only after making the entire payment as demanded.

8.The Board states that, as per the Government Order in G.O.Ms.No.29, dated 30.01.2002, the consideration amount was determined for the plot as per the Government guideline value fixed. The original allotment order was issued merely stating that 200 sq.ft of land was allotted in favour of the petitioner. However, the land cost or other conditions are not stipulated in the allotment order. The allotment order itself was issued by way of concession taking into account that the petitioner was residing in that land prior to taking over of the land by the Tamil Nadu Slum Clearance Board. Thus, the petitioner is not entitled for the relief as such sought for in the writ petition.

9.This Court is of the considered opinion that, admittedly, the petitioner is not a title holder of the land. Admittedly, the petitioner is an allottee. The order of the allotment issued in the proceedings dated 22.02.1993 states that the allotment of 200 sq.ft. of land is granted. The land cost was not determined during the relevant point of time. Admittedly, the petitioner was in occupation of the said land even prior to the allotment. This being the factum, the question of determination of land cost would arise only when a demand is made for the execution of the sale deed, by the Slum Clearance Board. Mere allotment would not confer any right of title or otherwise. The petitioner also had not approached the competent authorities for execution of sale deed during the relevant point of time or in the near future. However, the demand for execution of sale deed was made belatedly. This being the factum, the respondents have fixed the land cost when a request is made by the allottee for execution of sale deed. In the present case, a sum of Rs.1,318/- was fixed as the cost for one sq.ft. and this Court is of the considered opinion the said cost in respect of a property situated in a prime locality in T.Nagar, cannot be interfered with by this Court.

10.It is contended that the principal amount has already been deposited by the allottee. Now, the learned counsel for the petitioner made a request for waiver of interest. The interest accrued on account of various reasons. The allotment



was made in the year 1993, request for execution of sale deed was belatedly made by the allottee and thereafter, the issues were pending, and the writ petition was filed in the year 2011, and now, it is taken up for final hearing after a lapse of about nine years. On account of these reasons, the interest accumulated. However, the Courts are bound to ascertain the rights of the persons and mere delay cannot be a ground to waive the interest. The delay occurred at various stages at the instance of the parties.

11. Under these circumstances, this Court cannot interfere with the principal land cost already determined and paid by the allottee. Once the principal land cost is confirmed, there is no reason to interfere with the other consequential actions proceeded with. In this view of the matter, this Court is not inclined to grant the relief as such sought for in the present writ petition.

Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

sp/mkn

To

1. The Secretary to Government,
Tamil Nadu Housing & Urban
Development Board,
Fort St. George,
Chennai - 600 009.

2. The Chairman cum Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk,
Chennai - 600 005.



3. The Estate Officer - 4,
Tamil Nadu Slum Clearance Board,
Teynampet,
Chennai - 600 018.

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+1cc to Mr.S.Prabhu, Advocate, S.R.No.54055

W.P. No. 16869 of 2011

PL(CO)
RLP(12/11/2021)