

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.Nos.16580 & 16581 of 2015

and

W.M.P.Nos.1 of 2015 & 1 of 2015

1.K.Kalpana ... Petitioner in W.P.No.16580 of 2015
2.D.Moorthy ... Petitioner in W.P.No.16581 of 2015

Vs.

The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008. ... Respondents in both W.Ps.

PRAYER in both W.Ps:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the respondent herein to allot any plot in Maraimalai Nagar allotment scheme or any other available plots within the same range.

For Petitioner : M/s.Vasugi Ramanan
(in both W.Ps)
For Respondents : M/s.Veena Suresh
(in both W.Ps) Standing Counsel

C O M M O N O R D E R

By this common order, both these writ petitions have been disposed of.

2.The petitioner has filed this writ petition to to direct the respondent herein to allot any plot in Maraimalai Nagar allotment scheme or any other available plots within the same range. The petitioner had earlier filed a complaint before the Consumer forum and obtained a fair order. Thereafter, the order was refeshed.

3.The respondents have filed a additional counter affidavit wherein they have now stated allotments were made between 2005 and 2008, after giving advertisement in Tamil and English Dailies and that the petitioner ought to have sought for allotment of plot through the same procedure. It is further submitted that no such allotments were made to anybody, through any other mode or on any priority or quota basis.

4.It is further submitted that under schemes, certain number of plots were handed over to Tamil Nadu Electricity Board for making allotment in NH I Scheme. The Tamil Nadu Electricity Board also allotted HIG/MIG plot in this scheme at NH I only one or two plots are identified as vacant and the plots are included in the vacant plot list for further allotment on drawl basis.

5.The learned counsel for the respondent submits that the above 35 plots are available in Maraimalar Nagar scheme for residential plots, commercial plots and convenience site for public purpose and that valuation has been done as on date.

6.It is therefore submitted that the petitioner can participate in the public auction for allotment of the properties. It is submitted that petitioner cannot claim any priority over the general public merely because the petitioner has been litigating from 2005 onwards.

7.By way of rejoinder, the learned counsel for the petitioner submits that the allotment made during 2005-2008 to 30 persons on an arbitrary basis and were purportedly based on an advertisement of the respondent carried in Indian Express on 23.01.2005 on first cum first basis and that persons like petitioners were been denied allotment though the petitioner has been persevering with the respondents for allotment.

8.I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondents.

9.The petitioner cannot claim priority in allotment of the plots. The allotment has to be through fair means where by the public is given prior notice and are allowed to participate in the allotment process. The respondent are further required to call for application as per the established procedure and depending upon the number of applications that are received they were to proceed allot the plots by drawing plots. The fact that some irregular allotment were made in the past between 2005-2008 by CMDA by calling applicants to apply on first cum first basis itself does not entitle the petitioner to claim priority in the allotment merely because the petitioner has been in litigation.

10.The respondent however directed transfer the papers to the Vigilance Department to a certain whether there was any irregularity in the procedure adopted in allotting plots to 30 persons during the period between 2005-2008. If so appropriate disciplinary action may be taken against the erring officer in accordance with law. As far as the petitioner is concerned, that the petitioner to participate in the public auction for allotment from the balance plots that have been identified and remains unsold as on date. The

respondent may therefore take steps for allotting these balance plots in accordance with the Division Bench Judgment of this Court dated 15.12.2014 in Writ Appeal in W.A.No.1779 of 2013, W.A.761,762/2014 dated 15.06.2017 and W.P.Nos.27345 of 2009, 26374 of 2009, 21265 of 2009 and 29197 of 2010. The petitioner cannot have any priority in allotment by seeking a direction as prayed for.

11.Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

+1cc to M/s.Vasugi Ramanan, Advocate SR.No. 16191

+1cc to M/s.Veena Suresh , Advocate SR.No. 16405

W.P.Nos.16580 & 16581 of 2015

and

W.M.P.Nos.1 of 2015 & 1 of 2015

AJS (CO)

A.SK(07.07.2021)

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