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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.2261 of 2011 and 5453 of 2017

and

M.P.Nos.1 of 2011 and W.M.P.No.5780 of 2017

K.Usha Rani

...Petitioner
(in both W.Ps)

Vs.

1.The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Road,
Chennai - 600 005.

2.The Estate Officer,
Tamil Nadu Slum Clearance Board,
K.K.Nagar, Chennai - 600 078.

...Respondents
(in W.P.No.2261of

2011)

3.The Estate Officer,
Estate Office - 8,
Tamil Nadu Slum Clearance Board,
Sivalingapuram, K.K.Nagar,
Chennai - 600 078.

...Respondent
(in W.P.No.5453 of 2017)

Prayer in W.P.No.2261 of 2011 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for records connected with the proceedings issued in Na.Ka.No.G8/189/2005 dated 24.12.2010 passed by the 1st Respondent and quash the same and consequently direct the Respondents to give time to the petitioner to pay the amount in an installment.

Prayer in W.P.No.5453 of 2017 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for records connected with the proceedings issued in Na.Ka.No.1206/E/2010/A.A-8 dated 28.02.2017 passed by the Respondent and quash the same and consequently direct the respondent to waive the interest.



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For Petitioner : Mr.S.Ilamvaludhi
(in both W.Ps)

For Respondents : Mrs.D.Latha
(in both W.Ps)

COMMON ORDER

The writs on hand have been instituted questioning the validity of the order passed by the 1st respondent in proceedings dated 24.12.2010. The order impugned states that the petitioner is employed to pay the balance due amount of Rs.19,00,135/- (Rupees Nineteen Lakhs Hundred and Thirty Five Rupees) and the said amount is to be paid on or before 31.01.2011. The petitioner has chosen to file the present writ petition.

2. The petitioner was working as Sub-Inspector of Police in B1 Police Station and retired from service on attaining the age of superannuation. Her husband was working in the Easen Engineering Company, which was closed in the year 1998. The petitioner was allotted a flat by the Tamil Nadu Slum Clearance Board in No.A3, Jafarkhanpet, Ashok Nagar, Chennai-83 by the order dated 09.07.1999. The flat was allotted by the resolution of the Board No.10 dated 06.02.1998 based on the application submitted by the writ petitioner in application No.4273. The total cost of the Flat was Rs.6,10,360/- (Rupees Six Lakhs Ten Thousand Three Hundred and Sixty). 30% of the total amount should be paid immediately on allotment and the petitioner had already paid a sum of Rs.1,83,100/- (Rupees One Lakh Eighty Three Thousand Hundred) and the Flat was allotted and the petitioner has taken possession of the Flat in the year 1999. The monthly installment of Rs.6,595/- (Rupees Six Thousand Five Hundred and Ninety Five) is to be paid. The petitioner states that she has paid a sum of Rs.4,27,000/- (Rupees Four Lakhs Twenty Seven Thousand). In view of the default in payment of installments the allotment was cancelled. The Tamil Nadu Slum Clearance Board issued a notice in the year 04.01.2005 asking the petitioner to pay a sum of Rs.1,84,675/- (Rupees One Lakh Eighty Four Thousand Six Hundred and Seventy Five) before 31.01.2005. The petitioner immediately filed a writ petition in W.P.No.2256 of 2005 and this Court passed an order on 27.08.2010, as follows:

"9. Therefore while upholding the order impugned, liberty is granted to the petitioner to submit a representation to the respondent within a period of two weeks from the date of receipt of a copy of this order and the petitioner shall indicate the manner in which she proposes to liquidate the dues payable to the respondent Board. On receipt of such representation, the respondent shall consider the same and pass appropriate orders on merits and in accordance



with law.

10. The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed."

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3.The petitioner initially obtained an order of stay in the writ petition and the final order was passed after a lapse of five years in the year 2010. However, pursuant to the orders of this Court the petitioner again submitted a representation instead of settling the issues. The said representation was considered by the authorities and the impugned order dated 24.12.2010 was issued as per the said order impugned and the petitioner was asked to pay a sum of Rs.19,00,135/- (Rupees Nineteen Lakhs Hundred and Thirty Five Rupees) on or before 31.01.2011. Then also the petitioner has not settled the issues and had chosen to file the present writ petition in the year 2011.

4.During the pendency of the writ petition in W.P.No.2261 of 2011, the petitioner had filed another writ petition in W.P.No.5453 of 2017 and this Court passed an conditional order of interim stay directed the petitioner to pay 30% of the total payment. Even the conditional order had not been complied with by the petitioner.

5.Any allottee of a Flat or otherwise by the Slum Clearance Board, Housing Board or by any authority are expected to borne in mind that they are liable to pay the cost of the Flat, failing which, the authorities competent are empowered to initiate action as per the terms and conditions of the allotment. The allotment order dated 09.07.1999 enumerates the terms and conditions of allotment. Every monthly installment must be paid on or before 10th of calendar month, failing which, the allottee is liable to pay 18% of interest per annum. In the event of default for a continuous period of two months, then the authorities are empowered to cancel the allotment itself. The conditions of allotments are very much informed to the petitioner in the allotment order dated 09.07.1999 itself. On 04.01.2005 itself, final notice was issued to the petitioner categorically stating that in the event of not paying the arrears of installments, the allotment will be cancelled. During the relevant point of time, the due was Rs.1,84,675/- (Rupees One Lakh Eighty Four Thousand Six Hundred and Seventy Five). The petitioner had not chosen to pay the said amount and filed a writ petition in the year 2005.

6.Litigative tactics are by virtue of an interim order. The parties can never be allowed to take any undue advantage or unjust gain of the public property and more over the public money, i.e the taxpayers money. The Slum clearance Board is the Government Body and the investments are made from the Government funds. Therefore, the authorities competent are



bound to protect the taxpayers money in this regard and in the event of default by the allottees, they are bound to initiate actions and recover the dues by following the procedures as contemplated.

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7. In the present case sufficient opportunities were granted to the petitioner to settle the issues. The petitioner got an opportunity to approach the authorities and settle the issues even by making a request for a concession or otherwise. Contrarily, she has chosen to litigate the matter and continued to be in possession for about 21 years without making payment as per the allotment conditions and thereby causing monetary loss to the public exchequer and for her unjust gain.

8. The petitioner was working as a Sub-Inspector of Police. When a Sub-Inspector of police was allotted with a Flat by the Board, the Public Officer is expected to pay the dues. No doubt there is a possibility of family circumstances or otherwise and if at all in those circumstances, the petitioner was not in a position to pay, then atleast a decision is to be taken in this regard for the purpose of surrendering of the Flat or to clear the arrears then and there enabling the authorities to confirm the allotment. Contrarily, the petitioner with all tenor continued to be in possession for 21 years without making payment to the Board and only by adopting a litigative tactics, which can never be encouraged by the Courts.

9. This Court is of the considered opinion that the petitioner cannot be treated otherwise as she was holding a responsible position as a Sub-Inspector. She was very much aware of the conditions of allotment, she was well informed about the arrears and she received the final notice issued by the authorities in the year 2005, stating that the arrears of Rs.1,83,100/- to be paid, but she has chosen not to pay the said amount and continued to be in possession of the property.

10. In view of the facts and circumstances, the case of the petitioner do not deserve any leniency as the petitioner who was working as Sub-Inspector of Police was very much aware of the consequences and know about the terms and conditions of the allotment. This being the factum established, the petitioner is at liberty to settle the arrears of amount due to the Board within a period of four weeks from the date of receipt of a copy of this order and in the event of settling the amount, the Board is at liberty to confirm the allotment and if the arrears amounts as of today is not settled by the petitioner, then the Board is directed to initiate eviction procedures and recovery proceedings to recover the dues by following the procedures contemplated.



11. With these directions, these Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

Jeni/Cse

To

1. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamaraj Road,
Chennai - 600 005.

2. The Estate Officer,
Tamil Nadu Slum Clearance Board,
K.K.Nagar, Chennai - 600 078.

3. The Estate Officer,
Estate Office - 8,
Tamil Nadu Slum Clearance Board,
Sivalingapuram, K.K.Nagar,
Chennai - 600 078.

+1cc to Mr.S.Ilamvaludhi, Advocate SR.No.66491

+1cc to Mrs.D.Latha, Advocate SR.No.66464

W.P.Nos.2261 of 2011
and 5453 of 2017

NR (CO)
GMY (05/01/2022)