

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM

**THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

W.A.No.1869 of 2019 and CMP.No.12624 of 2019

S.L.Srinivasan ... Appellant

-VS-

1. State of Tamil Nadu
rep. by Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.
2. Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.
3. Executive Engineer and Administrative
Officer, Tamil Nadu Housing Board,
Vellore Housing Unit, Vellore. ... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent
against the order of the learned Single Judge made in W.P.No.1357 of
2011 dated 27.11.2018.

For Appellants : Mr.R.Natarajan

For 1st Respondent : Mr.T.Arunkumar,
Government Advocate

For Respondents : Dr.R.Gowri
2 and 3

JUDGMENT

(Judgment of the Court was pronounced by **T.RAJA.J**)

This Writ Appeal has been directed against the impugned order dated 27.11.2018 passed by the learned Single Judge in W.P.No.1357 of 2011, thereby refusing the prayer of the appellant to quash the order passed in G.O.(2D) No.496 dated 02.09.2010 by the 1st respondent herein and to restore the allotment order in favour of the appellant in G.O.2(d) No.169 (Housing and Urban Development), dated 01.09.2005.

2. Learned Counsel appearing for the appellant/writ petitioner assailing the impugned order contended that the impugned order is running contra to Section 155(1) of the Tamil Nadu Housing Board Act, 1961, inasmuch as the impugned order in G.O.(2D) No.496 dated 02.09.2010 was passed in violation of the principles of natural justice because no enquiry was conducted by the 1st respondent before issuing the order cancelling the allotment given to the appellant. Therefore, the same is without jurisdiction.

3. Learned Counsel for the appellant further drawing our notice to an earlier order dated 21.07.2009 passed in W.P.No.49769/2006 contended that when there was a clear direction

issued by the learned Single Judge in the first round of litigation to pass orders afresh giving reasons why such allotment made in favour of the appellant had been cancelled, if he desires to do so with an observation that the respondents shall fix the amount for the allotment of the plot made in favour of the appellant, that order has been completely overlooked.

4. Explaining further, learned Counsel for the appellant also contended that when the Plot bearing No.383-A under the Vellore Sathuvachary Scheme-1 was allotted by the 1st respondent in his proceedings dated 01.09.2005 in G.O.(2d) No.169, after the said allotment, the appellant met the 3rd respondent as well as the 2nd respondent on many occasions, expressing his willingness to pay the costs for the building so as to take possession, but there was no response from the respondents 2 and 3. In the meanwhile, he has received the cancellation order dated 19.09.2006 that has been put to challenge, since it was served without even issuing any notice for hearing. Therefore, the learned Single Judge in his order dated 21.07.2009 in W.P.No.49769/2006, while allowing the said writ petition by setting aside the Cancellation Order dated 19.09.2006, directed the 1st respondent to pass fresh orders giving reasons. As the respondents have not given any good reasons, the writ petition filed

ought to have been allowed. But the learned Single Judge, based on a statement made by the respondents that the appellant is owning a house plot bearing Door No.23/66 at First Street, Vijayaraghavapuram, within the boundary of Sathuvachari Municipality Limit, without even notification and also without verifying whether the G.O.Ms.No.2063 (Housing) dated 09.11.1979 is applicable to the case of the appellant, dismissed the writ petition. The said approach adopted by the learned Single Judge is unfair, therefore, the impugned order is liable to be set aside by allowing the present writ appeal, giving a specific direction to the respondents to allot the same plot to the appellant herein.

5. Learned Counsel appearing for the Tamil Nadu Housing Board contended that on considering the appellant's application, the Government has allotted Plot No.383-A of Vellore Sathuvachery under the category of "Social Worker" by proceedings in G.O.(2D) No.169, Housing and Urban Development Department, dated 01.09.2005. Thereafter, on verification, since it came to notice that the appellant already owned a plot bearing Door No.23/66 at First Street, Vijayaraghavapuram within the boundary of Sathuvachari Municipality Limit and the said fact was also suppressed by him, he is not eligible for allotment of plot under the discretionary quota. Hence, the Cancellation Order dated 02.09.2010 was passed by following the

norms prescribed in G.O.Ms.No.2063 (Housing) dated 09.11.1979 and the said order needs no interference by this Court.

6. Now coming to the counter affidavit filed by the third respondent herein, namely, Executive Engineer and Administrative Office, Tamil Nadu Housing Board, Vellore Housing Unit, Vellore, in W.P.No.1357/2011 wherein it was stated that the appellant owns a house at No.23/66, Vijayaraghavapuram 4th Street, Sathuvachari, Vellore-9, within Sathuvachari Municipal Limit, but, while applying for the plot at Phase-I, he has stated that he is not having any house or plot in Tamil Nadu Housing Board which is contrary to G.O.Ms.No.2063 (Housing) dated 09.11.1979 and disqualifies any applicant seeking allotment on the ground that he or she owns a house or a plot in the same place. In this regard, it is pertinent to extract the same here under :

"4. With regard to the averments made in Para-2, it is submitted that in G.O.(2D) No.496 dated 02.09.2010 Government Housing and Urban Development has informed that the appellant already owns a house at No.23/66, Vijayaraghavapuram 4th Street, Sathuvachari, Vellore-9, within the Sathuvachari Municipal limit of Sathuvachari and while applying for the plot at Phase-I he has stated that he is not having any house or plot in Tamil

Nadu, is a contrary one. Hence, G.O. issued dated 02.09.2010 is a valid one and as per the norms prescribed in G.O.Ms.No.2063 (Housing) dated 09.11.1979."

The learned Single Judge also accepting the statement made by the respondents has, rightly appreciating the fact that the appellant owns a plot bearing Door No.23/66, Vijayaraghavapuram 4th Street, Sathuvachari, Vellore-9, within Sathuvachari Municipal limit and also considering the fact that the same was not even disputed in the affidavit filed in support of the writ petition, dismissed the Writ Petition.

7. In this regard, it is also pertinent to extract the Circular Memo No.P-2/47217/93 dated 23.8.1993 of the Tamil Nadu Housing Board here under :

"As per the norms prescribed in the G.O. 1st cited for allotment of Tamil Nadu Housing Board plots/flats/houses, an applicant should not own a house/flat/plot in any Municipal Corporation, Special Grade and 'A' Grade Municipalities or in any of the capital town in the country either in his/her name or in the name of the spouse or minor children.

As per the revised norms approved in Board's resolution 2nd cited (annexed) an applicant of Housing Board scheme should not own a house/house site/flat in any Municipal Corporation, Special Grade and 'A' Grade Municipality, Township, Town Panchayat in Tamil Nadu and in any Housing Scheme of Tamil Nadu Housing Board anywhere in Tamil Nadu or in any State/Union Territory Capital Town in the country either in his/her name or in the name of the spouse or minor children.

A declaration to the above effect should be obtained from the applicant and also incorporated in the application form."

A perusal of the above Circular Memo reveals that an individual who applies for allotment of plots or flats or houses does not own a house or flat or house site in any Municipal Corporation, Special Grade and 'A' Grade Municipalities/Township/Town Panchayat in Tamil Nadu and in any housing scheme of Tamil Nadu Housing Board anywhere in Tamil Nadu or in any State/Union Territory Capital Town in the country either in his/her name or in the name of the spouse or minor children. Therefore, since the appellant owns a plot bearing Door No.23/66, Vijayaraghavapuram 4th Street, Sathuvachari, Vellore-9, within Sathuvachari Municipal limit and he has also suppressed the said fact, his claim for allotment of Plot under the Vellore Sathuvachary Scheme-1 was cancelled and the same was also confirmed by the learned Single Judge. In view of all the above, we do not find any infirmity or

illegality in the impugned order of the learned Single Judge.

8. In the result, the Writ Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

(T.R.J.,)

(T.V.T.S.J.,)

26.08.2021

tsi

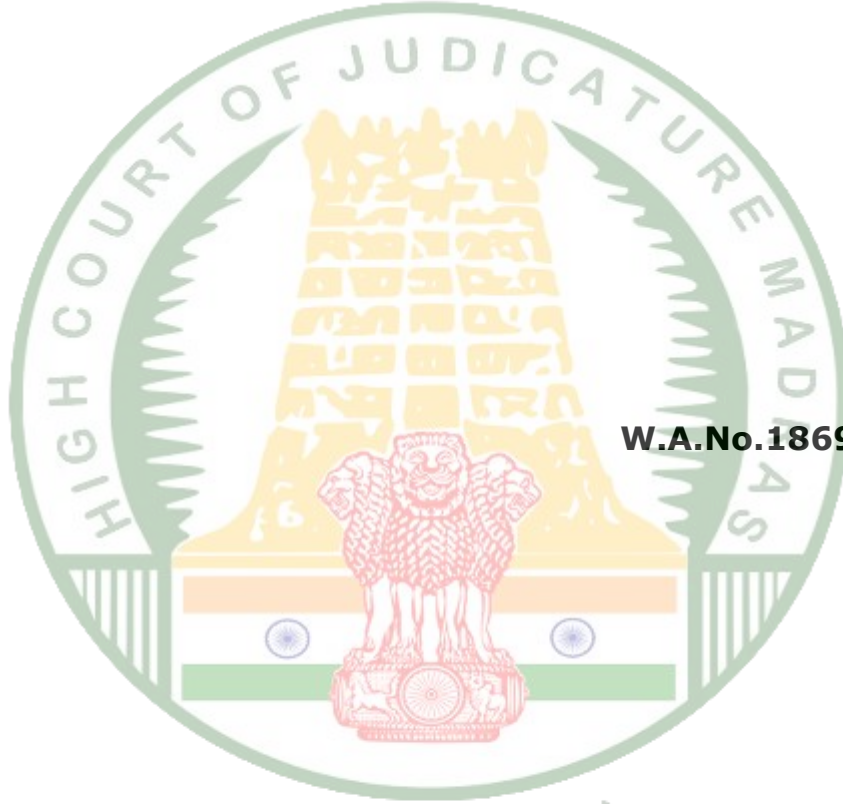
To

1. Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.
2. Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.
3. Executive Engineer and Administrative
Officer, Tamil Nadu Housing Board,
Vellore Housing Unit, Vellore.

WEB COPY

T.RAJA, J.
and
T.V.THAMILSELVI, J.

tsi



W.A.No.1869 of 2019

सत्यमेव जयते

26.08.2021

WEB COPY