



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P.NO.40054 OF 2015

S.V.S.Rajakumar

... Petitioner

Vs.

1. The Manager Marketing and Service,
K.K.Nagar Division Tamil Nadu Housing Board,
Ashok Nagar,
Chennai- 600 083.

2. The Executive Engineer and Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Ashok Nagar,
Chennai - 600 083.

... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings in Letter No. KKN B2/1901/2008 dated 20.11.2015 on the file of 1st respondent and quash the same and direct the respondents to present and execute sale deed of the commercial Plot No.S-6 at Thirukatchur Scheme, K.K.Nagar Division in favour of the petitioner and also direct the respondents to bear the cost of stamp duty and registration charges.

For Petitioner : Mr.M.S.Soundara Rajan

For Respondents : Mr.R.Bharath Kumar

O R D E R

The order impugned dated 20.11.2015 directing the petitioner to make the balance payment is under challenge in the present Writ Petition. The petitioner has applied for purchase of commercial Plot No. S-6 at Thirukachur Scheme, K.K.Nagar



Division. The petitioner participated in the sealed cum open auction held on 12.11.2008. The petitioner was successful in the bid and was allotted 344.32 Sq.ft. of commercial plot S-6 for a total cost of Rs.3,02,000/- in a proceedings dated 26.12.2008.

2. It is not in dispute that the petitioner had paid the entire cost amount in three installments. However, there was delay in paying the second and third installments. The delay was about two months for the two installments and therefore, the respondents have initiated action.

3. The learned counsel for the petitioner states that the entire cost had already been paid and the respondents have not executed any sale deed. When the petitioner approached the respondents for execution of sale deed, they have issued impugned order after a lapse of about six years. Thus, the very initiation of proceedings itself is untenable.

4. The learned counsel for the respondent / Housing Board has not disputed the fact that the petitioner has paid the entire cost amount. However, the learned counsel for the respondents submitted that, for belated payment of cost amount, the Board has proceeded to initiate the action.

5. This Court is of the considered opinion that, admittedly, there was a delay of two months in paying the second and third installments and the respondents ought to have demanded interest for the belated payment instead of cancelling the allotment. However, the fact remains that the allotment was cancelled and the demand notice has been issued after a lapse of six years, which is absolutely unreasonable. The petitioner though committed a default, it is only temporary default and he had paid the entire cost amount. Thus, he is entitled for the relief. Accordingly, the impugned order in Letter No.KKN B2/1901/2008 dated 20.11.2015 is quashed and the respondents are directed to repay the entire cost amount collected from the Writ Petitioner, within a period of eight weeks from the date of receipt of a copy of this order. With these directions, the Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

shr/kan



To

1. The Manager Marketing and Service,
K.K.Nagar Division Tamil Nadu Housing Board,
Ashok Nagar,
Chennai- 600083.
2. The Executive Engineer and Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
Ashok Nagar,
Chennai - 600083.

+1cc to Mr.M.S.Soundara Rajan, Advocate, S.R.No.64895
+1cc to Mr.R.Bharath Kumar , Advocate, S.R.No.65573

W.P.No.40054 of 2015

PA (CO)
PM/28/12/2021