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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.6766 OF 2012

AND

M.P.NO.1 OF 2012

R.Sundaram

... Petitioner

.Vs.

The Chief Executive Engineer,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
No.8, Gandhi Irwin Salai, Egmore,
Chennai - 600 008.

... Respondent

PRAYER:-

Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to the proceedings of the Respondent herein dated 22.11.2010 and made in Letter No.AL8/9174/93, directing the petitioner to pay a sum of Rs.11, 24, 604/- for the MIG Plot No.4, Block No.6 at Maraimalai Nagar scheme allotted to the petitioner and quash the same as illegal and without jurisdiction and further direct the respondent herein to inform the amount payable by the petitioner towards the balance instalment inclusive of interest to enable the petitioner to pay the amount and to receive the sale deed for the aforesaid plot allotted to the petitioner.

For Petitioner : Mr.R.S.Mohan

For Respondent : Mr.Karthick Raja

O R D E R

The order dated 22.11.2010, which is a conditional order, asking the petitioner to pay the plot cost for the purpose of restoration of the plot allotment made.



2. The order impugned states that the petitioner was allotted with a house plot at Maraimalai Nagar Scheme in M/G 6/4 and the petitioner committed a default in payment of installment amount. In view of the fact that the petitioner has committed a default, the order of allotment was cancelled. However, the CMDA reconsidered the case of the petitioner and passed an order impugned in proceedings dated 22.11.2010, asking the petitioner to pay the land cost in one installment, enabling them to restore the allotment. The condition imposed is to pay the entire cost amount of Rs.11,24,604/- on or before 31.12.2010. The petitioner instead of depositing demanded amount, has chosen to file the present writ petition mainly on the ground that the order passed, cancelling the allotment, was not communicated to the writ petitioner and the revised cost calculated by the respondents is improper and not in consonance with the scheme of allotment.

3. The learned counsel for the petitioner reiterated that the petitioner was ready to deposit the reasonable cost to be determined and the cost mentioned in the impugned order is unreasonable and the respondents are claiming more and more interest without considering the fact that the petitioner was ready to settle the amount. The learned counsel for the petitioner states that the similar cases were considered by the respondents and some of the persons have paid the original cost amount determined and the same benefit is to be extended to the petitioner. The learned counsel for the petitioner relied on the judgment of this Court passed in W.P.No.16031 of 1991 dated 25.03.1999, which reads as under:

"10. In the light of what is stated above, more particularly, in view of the recommendation made by the second respondent accepting the claim of the petitioner and recommending his case for allotment and of the fact that the very same plot is available even now, in as much as the petitioner was not at fault due to the reasons mentioned above, he is justified in claiming the price for the said plot prevailing as on 20.02.1987, hence there shall be a direction to the respondents to allot plot No.809 at Korattur at the price prevailing as on 20.02.1987 within a period of eight weeks from the date of receipt of the copy of this order. Accordingly, the writ petition is allowed as mentioned above. No costs. Consequently, connected W.M.P., is closed."

4. This Court is of the considered opinion that the case relied on by the petitioner was of the year 1991. Each scheme has got its own terms and conditions for allotment,



determination of land cost and other terms and conditions. Thus, the facts of the case referred, which was decided in the year 1999 by this Court is not comparable in respect of the facts and circumstances of the present case.

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5. In the present case, admittedly, an allotment was made in favour of the petitioner. The petitioner committed default in payment of monthly installments. Thus, the allotment was cancelled by the respondents on 14.08.1997. However, the case of the writ petitioner was reconsidered and the respondents directed the petitioner to pay the land cost of Rs.11,24,604/- in one installment on or before 31.12.2010. Granting further opportunity for restoration of allotment itself is a concession extended to the writ petitioner. However, the petitioner had not availed the concession. Contrarily, he has chosen to file the present writ petition and almost 11 years lapsed from the date of passing of the impugned order. The allotment was cancelled in the year 1997. The said order of cancellation of allotment is not under challenge. However, an opportunity given to the writ petitioner to settle the issue through the impugned order dated 22.11.2010 alone is under challenge in the present writ petition.

6. This being the factum, the impugned order is to be construed as a concession extended by the respondents in favour of the petitioner for the purpose of settling the issues and the petitioner has not settled the issues. In view of the exorbitant enhancement of land cost in that particular locality, more specifically, in Maraimalai Nagar, this Court cannot grant the relief as such sought for in the present writ petition. However, it is for the petitioner to approach the authorities, if any grievance exists for the purpose of redressal of the same.

7. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Chief Executive Engineer,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Maligai,
No.8, Gandhi Irwin Salai, Egmore,
Chennai - 600 008.

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