



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26-11-2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.18342 OF 2014

AND

M.P.NO.1 OF 2014

P.Krishna Raj

... Petitioner

.Vs.

1. The Tamil Nadu Housing Board,
Represented by its Chairman,
Chennai - 600 035.
2. The Executive Engineer cum
Administrative Officer,
Kovai Housing Development Division,
Tamil Nadu Housing Board,
Tatabad, Coimbatore - 12.

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the proceedings vide Letter No.A6/3040/11 dated 06.05.2014 issued by the second respondent and quash the same.

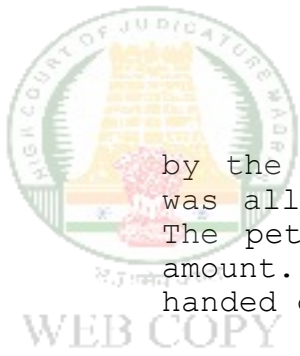
For Petitioner : Mr.R.Subramanian

For Respondents : Mr.R.Bharath Kumar

O R D E R

The order dated 06.05.2014 issued by the second respondent permitting the petitioner to get back the amount deposited by the petitioner, is under challenge in the present writ petition.

2. The petitioner was an allottee of MIG Flat No.B15, Nehru Nagar, Kalapatti Scheme, Coimbatore Housing Development Division



by the second respondent on 17.05.2011. An area of 1,235 sq.ft was allotted and the final cost was mentioned as Rs.4,60,000/-. The petitioner paid a sum of Rs.4,00,000/- towards the advance amount. The petitioner executed an agreement and possession was handed over on 18.11.2011.

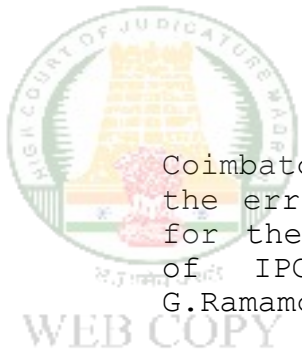
3. The grievance of the petitioner is that the cancellation order was passed without hearing the petitioner and therefore, the consequential order passed pursuant to the cancellation order is liable to be set aside.

4. Curiously, the present writ petition was filed challenging the consequential order to the cancellation order. The very same writ petitioner filed another W.P.No.5661 of 2014, challenging the cancellation order dated 21.01.2014, which was already allowed. In the said case, also the very same point has been taken that the petitioner was not provided with an opportunity and therefore, the cancellation order is to be set aside.

5. This Court considering the grounds that the allotment of cancellation order was issued without providing an opportunity to the petitioner was pleased to set aside the cancellation order and allowed the writ petition. In respect of consequential order passed by the Tamil Nadu Housing Board on 06.05.2014, with reference to the cancellation order, permitting the petitioner to get back the amount deposited is challenged in the present writ petition.

6. Beyond all these, the Tamil Nadu Housing Board made a submission that during the year 2012, after allotment, the Managing Director of Tamil Nadu Housing Board came to know that Mr.G. Ramamoorthy, Executive Engineer and Administrative Officer of Coimbatore Division, R.Kathiresan, Junior Assistant and Mr.A. Panneerselvam, Superintendent and others had committed a fraud and illegally allotted plots and houses to various individuals without obtaining necessary orders from the Board and also without price fixation, without proper publication and without conducting a public auction and thereby caused huge revenue loss of Rs.1,107.20 lakhs to the Tamil Nadu Housing Board.

7. Charge Memo was issued to all erring officials, who were indulged in illegal allotment of plots/house on 09.10.2012. The said officials were placed under suspension on the same day on 09.10.2012. On 05.11.2013, the Tamil Nadu Housing Board has given a complaint to the Commissioner of Police, Coimbatore for initiation of criminal action against all the erring officials, who had committed fraud. On 18.12.2013, the petitioner submitted an application seeking for execution of Sale Deed. The Tamil Nadu Housing Board has given a petition to Inspector of Police,



Coimbatore City Crime Branch for registration of FIR against all the erring officials. The FIR was registered in Crime No.2/2013 for the offences punishable under Sections 120(B), 409 and 420 of IPC by the City Crime Branch, Coimbatore against G.Ramamoorthy and others.

8. On 27.12.2013, the Managing Director of Tamil Nadu Housing Board had sent a petition to the Commissioner of Police, Coimbatore City for inclusion of 19 more fraudulent transactions along with the pending criminal cases. On 21.01.2014, based on the criminal proceedings and also under the instructions of the Board, the Manager, Allotment and Sales - Tamil Nadu Housing Board has cancelled the allotment made in favour of the petitioner on the ground that the allotment was made against the allotment rules and requested the petitioner to get back the amount paid by him.

9. On 24.01.2014, the Executive Engineer, Tamil Nadu Housing Board has sent a petition to Sub Registrar, Gandhipuram not to entertain any registration in respect of fraudulent transaction entered between the Tamil Nadu Housing Board Officials and the individuals for the relevant period. The Executive Engineer, Tamil Nadu Housing Board has sent a petition to the Member Secretary, Local Planning Authority, Coimbatore not to grant planning permission to the properties belonging to Coimbatore Housing Unit. The Executive Engineer, Tamil Nadu Housing Board has sent a petition to the Commissioner of Coimbatore City Municipal Corporation not to grant permission to the properties belonging to Coimbatore Housing Unit.

10. The petitioner filed WP No.5661 of 2014, challenging the cancellation of allotment dated 21.01.2014. The said writ petition was filed on 18.02.2014. On 28.02.2014, legal notice was issued by the petitioner for execution of Sale Deed for the house allotted to him. A reply notice was issued by the second respondent rejecting the request made by the petitioner on 06.05.2014. On 12.12.2018, the High Court passed an order in WP No.5661 of 2014, setting aside the cancellation of allotment and directed the second respondent to issue notice to the petitioner and conduct fresh enquiry and pass appropriate orders.

11. Based on the order passed in that writ petition, the second respondent issued notice to the petitioner on 10.05.2019 to appear for the enquiry and directed the petitioner to give written explanation, within seven days from the date of receipt of the notice. On 24.08.2020, the Tamil Nadu Housing Board sought for willingness from the petitioner to pay the price to be fixed by the Board for the property allotted to the petitioner as per Rules and on such undertaking, the request of the petitioner will be placed before the Head Office for



consideration and for allotment of the said plot. The Tamil Nadu Housing Board states that the subject property is worth about Rs.40,10,000/- i.e., Rs.3,000/- per sq. ft. x 1,235 sq. ft., together with the value of building Rs.3,05,000/-. In the event of petitioner agreeing to pay Rs.40,10,000/-, the request of the petitioner will be placed before the Tamil Nadu Housing Board for passing necessary orders.

12. The earlier order passed by this Court in W.P.No.5661 of 2014 was on the ground that no opportunity was given to the petitioner before passing the cancellation order. This Court also allowed the writ petition only on the ground and directed the respondents to conduct an enquiry afresh by providing an opportunity to the petitioner. Pursuant to the orders, the respondents have given an opportunity to the petitioner for personal hearing and to submit a representation. Thus, on 10.05.2019, the Tamil Nadu Housing Board also made a reply that in the event of paying the actual cost of the property by the petitioner, the Tamil Nadu Housing Board will be in a position to place the files before the Board for appropriate orders. Thus, the orders passed by this Court in WP No.5661 of 2014 has been complied with.

13. However, the relief, as such, sought for in the present writ petition is to quash the consequential order, permitting the petitioner to get back his amount pursuant to the cancellation order passed. Thus, the petitioner has to take a decision whether he is willing to pay the actual cost of the subject property, enabling the Tamil Nadu Housing Board to place the files before the Board or to get back the amount already deposited by him before the Tamil Nadu Housing Board.

14. If a decision is taken by the petitioner to get back the amount if any, application is made, the Tamil Nadu Housing Board is directed to give back the amount already deposited by the petitioner before the Tamil Nadu Housing Board. Further, the cancellation of allotment earlier passed is concerned, all these facts regarding the fraudulent activities, registration of criminal case and investigations undergone were neither placed nor adjudicated by this Court in WP No.5661 of 2014 and this Court is of an opinion that the earlier writ petition was allowed only for providing an opportunity and such an opportunity was already provided by the Tamil Nadu Housing Board and thus, it is left open to the petitioner to take a decision in this regard.

15. However, the cancellation of allotment is in order and as per the Rules. In view of the fact that the said allotment was made in favour of the petitioner in a fraudulent manner without fixing the actual cost as per the Rules in force. Thus



WEB COPY

in such fraudulent activities in the matter of allotment of Housing Board property can never be approved nor be confirmed. Any such fraudulent activities cannot provide any right for the allottee to sustain the allotment made in such an illegal manner.

16. This being the principles to be followed, the petitioner is not entitled for any relief, as such, sought for in the present writ petition. Thus the petitioner may take a decision to get back the amount already deposited by him with the Tamil Nadu Housing Board or to pay the actual cost as determined by the Tamil Nadu Housing Board.

17. With the abovesaid observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn

To

1. The Chairman,
Tamil Nadu Housing Board,
Chennai - 600 035.
2. The Executive Engineer cum
Administrative Officer,
Kovai Housing Development Division,
Tamil Nadu Housing Board,
Tatabad, Coimbatore - 12.

+1cc to Mr.R.Subramanian, Advocate, S.R.No.61798
+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.61899

W.P.NO.18342 OF 2014

KSM(CO)
PBS/08/12/2021