



IN THE HIGH COURT OF JUDICIATURE AT MADRAS

DATED : 24.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

W.A.No.1612 of 2017 and C.M.P. No.21093 of 2017

The Executive Engineer and
Administrative Officer,
Salem Housing Unit,
Tamil Nadu Housing Board,
Salem.

... Appellant/Respondent

versus

P.Malaleena

... Respondent/Petitioner

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 27.08.2015 made in W.P. No.23838 of 2012 passed by the learned Single Judge.

Prayer in in W.P. No.23838 of 2012:-

To issue a Writ of Certiorarified Mandamus Calling for the records relating to the impugned proceedings dated 31.7.2012 in Letter No.R4/1644/10 issued by the respondent and quash the same consequently direct the respondent to execute the sale deed in favour of the petitioner in respect of the Plot No.C-7 of Alagapuram Scheme after receipt of final cost at the rate of Rs.4 650/- per sq.ft.

For Appellant : Dr.R.Gowri

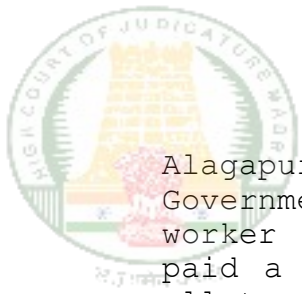
For Respondent : Mr.R.Nalliappan

JUDGMENT

(Judgment of this Court was delivered by T.RAJA,J.)

The present writ appeal is directed against the impugned order passed by the learned Single Judge in W.P.No.23838 of 2012, dated 27.08.2015, in and by which, the writ petition was partially allowed with a direction to the respondent to fix the value of Plot No.C-7 allotted to the writ petitioner at Rs.5,149/- per square feet in Alagapuram Scheme, Salem.

2.The writ petitioner was allotted housing plot No.C-7 at



Alagapuram Scheme, Salem, to an extent of 2959 sq.ft. under the Government Quota by order dated 08.11.2010 under the social worker category. At the time of allotment, the writ petitioner paid a sum of RS.10 lakhs on 25.11.2010. Out of 17 plots for allotment, 3 plots were reserved under the Government Quota and the rest of the plots were allotted through public auction, whereby the writ petitioner's husband was allotted with Plot C-6 at the rate of RS.4650/- per sq.ft. and the same was confirmed on 31.12.2010 and thereafter, Corner Plot No.C-7 was allotted in the name of the writ petitioner and thereby, a demand notice dated 31.07.2012 was issued fixing the final cost of the plot at the rate of Rs.7,000/- per sq.ft. with a direction to the writ petitioner to pay the said sum within a period of 21 days. Aggrieved by the same, Writ Petition No.23838 of 2012 was filed seeking to quash the same with a further direction to the Housing Board to execute the sale deed in favour the writ petitioner in respect of Plot No.C-7 after receipt of the final cost at the rate of Rs.4,650/- per sq.ft. Learned Single Judge, by order dated 27.08.2015, partly allowing the writ petition, directed the Housing Board to fix the value of Plot No.C-7 at the rate of Rs.5,149/- per square feet. Aggrieved thereby, the present writ appeal has been filed.

3.Learned standing counsel for the appellant submitted that the writ petitioner is not entitled to get any plot or house, when her husband was already allotted with a Plot No.C-6 at the rate of Rs.4,650/- per square feet in a public auction held by the Housing Board. In support of her submission, by placing on record a Circular Memo No.P-2/47217/93 dated 23.08.1993, disqualifying the respondent/applicant to get more than one plot or flat or house, learned counsel for Housing Board requested us to allow this appeal, filed by the appellant, cancelling the second shop allotted in favour of the writ petitioner.

4.In this context, it is necessary to extract the relevant portion of the above Circular Memo as 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) as 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



WEB COPY

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.'

5.Since the above Circular Memo clearly and explicitly mentions the point that the applicant of Housing Board, should not own a house or plot or flat in any Municipal Corporation either in his or her name or in the name of the spouse of the minor children in the family, taking note of the fact that the respondent's husband had already got allotment of shop No.C6 by participating in a public auction, she stands disqualified to get any more shop and this vital fact was overlooked by the Housing Board while allotting this present shop No.C7, hence, this Court is inclined to cancel the allotment of Shop No.C7 made in favour of the writ petitioner. Therefore, the allotment of Shop No.C7 made in favour of the writ petitioner stands cancelled and the same shall be auctioned in the public auction.

6.Accordingly, the writ appeal stands allowed. Consequently, C.M.P. No.21093 of 2017 is closed. No costs.

7.It is made clear that the amount deposited by the respondent/writ petitioner for Shop No.C7 shall be returned to her with simple interest at the rate of 6% per annum within a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vga

To:-

The Executive Engineer and
Administrative Officer,
Salem Housing Unit,
Tamil Nadu Housing Board,
Salem

W.A.No.1612 of 2017 and C.M.P. No.21093 of 2017

SV-I (CO)
CT(28/09/2021)