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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.Nos. 8740 of 2017 & 6308 of 2018
and
W.M.P.Nos.9588 & 9589 of 2017

Sree Periya Mariamman Alaya Arakattalai,
Rep. by its Managing Trustee,
Royakottai Road (near Flyover),
Melputhur, Kattikanapalli,
Krishnagiri - 635 001. ...Petitioner in W.P.No.8740 of 2017

N.Ramachandran ... Petitioner in W.P.No.6308 of 2018

Versus

- 1.The Tamil Nadu Housing Board,
Rep. by its Chairman,
Nandanam, Chennai - 600 035.
- 2.The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road, Hosur,
Krishnagiri District.
- 3.The Executive Engineer (Head Quarters),
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai - 600 035.
...Respondents in W.P.No.8740 of 2017

- 1.Tamil Nadu Housing Board,
Rep. by its Managing Director,
No.33, Anna Salai,
Nandanam, Chennai - 600 035.
- 2.The Manager,
Sales and Marketing,
Tamil Nadu Housing Board (Housing Unit),
Bagalur Road, Hosur - 635 109,
Krishnagiri District.
- 3.The Executive Engineer,
Tamil Nadu Housing Board,
Housing Scheme,
Bagalur Road, Hosur,
Krishnagiri District.



4.The Deputy Superintendent of Police,
Krishnagiri,
Krishnagiri District.

5.The District Revenue Officer,
Krishnagiri,
Krishnagiri District.

6.The Tahsildar,
Krishnagiri Taluk Office,
Krishnagiri District. ...Respondents in W.P.No.6308 of 2018

PRAYER in W.P.No.8740 of 2017: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the auction proceedings conducted by the 2nd respondent in respect of Item No.29 of the Tamil Nadu Housing Notification dated 04.12.2016 published in Daily Thanthi, Salem Edition and the impugned proceedings of the 3rd respondent made in Lr.No.N.A.B.2/2629/2017 dated 14.03.2017 and quash the same consequently direct the respondents to sell the Plot No.3A, Housing Colony, Kattikanapalli Village, Krishnagiri Taluk and District to the Petitioner's Temple on the prevailing market price.

PRAYER in W.P.No.6308 of 2018: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents 1 to 3 to measure the Commercial plot bearing No.3A at Krishnagiri Neighbourhood Scheme and fix boundaries and hand over vacant plot to the petitioner on the basis of confirmation of Bid issued by the 2nd respondent vide Letter No.HR11/1306/2017 dated 28.02.2017 within the time to be stipulated by this Court and if necessary get assistance/protection from the respondents 4 to 6.

For Petitioner : Mr.K.Govi Ganesan
(in Both W.Ps)
For R1 to R3 : Mr.I.Sathish
(in Both W.Ps)
For R4 to R6 : Mrs.C.Meera Arumugam
(in Both W.Ps) Additional Government Pleader

COMMON ORDER

Writ Petition in W.P.No.8740 of 2017 has been filed, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the auction proceedings conducted by the 2nd respondent in respect of Item No.29 of the Tamil Nadu Housing Notification dated 04.12.2016 published in Daily Thanthi, Salem Edition and the impugned proceedings of the 3rd respondent made in Lr.No.N.A.B.2/2629/2017 dated 14.03.2017



and quash the same consequently direct the respondents to sell the Plot No.3A, Housing Colony, Kattikanapalli Village, Krishnagiri Taluk and District to the Petitioner's Temple on the prevailing market price.

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Writ Petition in W.P.No.6308 of 2018 has been filed, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to measure the Commercial plot bearing No.3A at Krishnagiri Neighbourhood Scheme and fix boundaries and hand over vacant plot to the petitioner on the basis of confirmation of Bid issued by the 2nd respondent vide Letter No.HR11/1306/2017 dated 28.02.2017 within the time to be stipulated by this Court and if necessary get assistance/protection from the respondents 4 to 6.

2. These matters were heard at length by this Court on 20.01.2020 and after hearing both parties, this Court has passed the following order:-

"W.P.No.8740 of 2017 and W.P.No.63081 of 2018 have been placed for joint hearing before this Court by the Hon'ble Chief Justice.

2. W.P.No.8740 of 2017 has been filed by the Managing Trustee of Sree Periya Mariamman Alaya Arakattalai, Kattikanapalli Village, Krishnagiri Taluk and District, for a writ of certiorarified mandamus calling in question the auction proceedings conducted by the 2nd respondent in respect of item No.29 of the Tamil Nadu Housing Notification dated 4.12.2016 published in Daily Thanthi, Salem Edition and the impugned proceedings of the 3rd respondent made in Lr. No.N.A.B.2/2629/2017 dated 14.3.2017, quash the same and consequently issue a direction to the respondents to sell Plot No.3A, Housing Colony, Kattikanapalli Village, Krishnagiri Taluk and District to the petitioner's temple at the prevailing market price.

3. W.P. No.6308 of 2018 has been filed for a mandamus directing the respondents 1 to 3, to measure the commercial plot bearing No.3A at Krishnagiri Neighbourhood Scheme and fix boundaries and hand over vacant plot to the petitioner on the basis of confirmation of bid issued by the 2nd respondent vide letter No.HR11/1306/2017 dated 28.2.2017 within the time to be stipulated by this Hon'ble Court and if necessary get assistance/protection from respondents 4 to 6.

4. The grievance of the Petitioner in W.P. No.8740 of 2017 is that he questioned the auction proceedings conducted by the 2nd respondent, namely



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the Executive Engineer, Tamil Nadu Housing Board, Bagalur Road, Hosur, Krishnagiri District in respect of item No.29 of Tamil Nadu Housing Board notification dated 04.12.2016 published in Daily Thanthi, Newspaper, Salem edition. After due process, the 3rd respondent, namely the Executive Engineer (Head Quarters), Tamil Nadu Housing Board, Nandanam, Chennai, appears to have passed the impugned proceedings dated 14.03.2017.

5. It is to be noted that Plot No. 3A, Housing colony, Kattikanapalli Village, Krishnagiri Taluk and District, was a vacant plot measuring 4708 sq. feet. This was mentioned in the auction notice and the upset price was fixed at Rs.94,16,000. The same was advertised on 04.12.2016 in the Daily Thanthi, Salem Edition. It was stated in the said advertisement that the general public may participate in the auction on 05.12.2016.

6. The Writ Petitioner in W.P.No.6308 of 2018, N.Ramachandran was one of the participants in the auction. He is stated to be the successful bidder and his bid amount has also been accepted by the Housing Board Authority, namely the Executive Engineer, Housing scheme at Bangalore, Hosur. In pursuance of the payments required, the petitioner had paid a sum of Rs.49,27,500/- on 06.04.2017 and a further sum of Rs.24,63,750/- on 18.04.2017. He had already paid a sum of Rs.15,00,000/- on 10.01.2017 and a further sum of Rs.9,63,750/- on 12.01.2017. The petitioner herein, had thus paid a total sum of Rs.98,55,000/-.

7.The learned counsel appearing for the Housing Board admits receipt of the said amount by the Housing Board. It is further stated by the learned counsel that the local people and more particularly the temple authorities had filed W.P.No.8740 of 2017 to quash the auction proceedings and to sell the said vacant site to them. In these circumstances, W.P.No.63081 of 2018 has also been filed. It is to be noted that the Writ petitioner in W.P.No.8740 of 2017 was not a bidder in the auction proceedings. Therefore, the locus of the petitioner in W.P.No.8740 of 2017 itself has to be first examined by this Court before any order is passed in that writ petition which has been filed questioning the auction process.

8. The learned counsel for the petitioner in W.P.No.63081 of 2018 submitted that immediately next to the disputed land there is a plot, which



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had been taken on auction by a member belonging to a political party. This sale has not been questioned by the temple authorities. However, though the petitioner had paid the total consideration of Rs.98,55,000/- the sale in his favour is questioned by the temple authorities. According to the learned counsel, this is arbitrary and directly interferes with the rights of the petitioner who has paid a huge amount legitimately on the expectation that the plot would be identified, measured and handed over to him.

9. It is clear that, there is no due diligence on the part of the Housing Board authority. The learned counsel stated that he can produce the layout plan to substantiate this statement that there is a plot in between the temple and the disputed plot. The question temple authorities have to file an affidavit with respect to that fact. Time is granted till 03.02.2020 on which date, no further adjournments to be granted.

10. The Housing Board authorities can list the name of the officials, particularly, those who conducted the auction in the first instance and those who have failed to identify, measure and hand over the vacant plot to the petitioner in W.P.No.63081 of 2018 is concerned though he had paid the entire consideration. The Court might fix the responsibility on the official for the delay in handing over the plot. The learned standing counsel for the Housing Board states the authorities shall cooperate in this regard.

11. List the matter on 03.02.2020."

3. Subsequently, pursuant to the above direction given by this Court, a status report has also been filed by the 3rd respondent/Executive Engineer, Hosur Housing Unit. A perusal of the status report, it is clear that in the year 2016, the Administrators of Sree Periya Mariyamman Temple have requested the Executive Engineer of Hosur Unit to allot the subject land to them, who in turn, advised them to participate in the auction. However, the Administrators of Sree Periya Mariyamman Temple have not participated in the auction, which was held in the year 2017, wherein, one N.Ramachandran/petitioner in W.P.No.6308 of 2018 has participated in the auction and stood as successful bidder. Now, the subject land was allotted to the petitioner and he has also remitted a total sum of Rs.98,55,000/-.

4. In these circumstances, the Sree Periya Mariyamman Temple has also filed the writ petition in W.P.No.8740 of 2017



challenging the allotment order of the 3rd respondent/The Executive Engineer (Head Quarters), Tamil Nadu Housing Board. When the status report was filed, the respondents have filed a detailed counter, wherein it was clearly stated that they have also requested the trustees of the temple to participate in the public auction, but, they have not participated in the auction. In such circumstances, the auction was conducted and the land was allotted to the petitioner/N.Ramachandran in W.P.No.6308 of 2018 and he has also paid the entire amount. Thus, this Court is unable to trace out any reason to invalidate the auction conducted by the officials respondents. It is only the fault of the temple authorities in not participating the auction to purchase the property. In these circumstances, the claim of the temple authorities that they are willing to purchase the land from the Housing Board, this Court is of the view that the Housing Board has rightly not given any indulgence to such request at the belated stage. But, the official respondents should take necessary steps to remove the encroachment made by the temple authorities and handover the possession to the N.Ramachandran/petitioner in W.P.No.6308 of 2018. Therefore, the relief sought for by the petitioners/Administrators of Sree Periya Mariyamman Temple in W.P.No.8740 of 2017 cannot be granted. Accordingly, the Writ Petition is liable to be dismissed.

5. Since the possession has not been handed over, the petitioner in W.P.No.6308 of 2018 has sought for a direction to the officials respondents to remove the encroachment and hand over the possession. However, according to the respondents, the subject land was measured and vacant possession was handed over to the petitioner/N.Ramachandran on 17.03.2018. However, the respondents have not disputed that there is encroachment in the subject land.

6. Since the petitioner is aggrieved over the encroachment, it is the duty of the respondents to take appropriate steps to remove the said encroachment with the aid of police and hand over the possession of the encroached portion. Accordingly, this Court directs the respondent No.4 in W.P.No.6308 of 2018 to provide sufficient protection to the petitioner as well as the respondents 1 to 3 to remove the encroachment and take over the possession of the property and the official respondents shall provide all assistance for the purpose of eviction and thereby the peaceful possession is taken over by the petitioner herein. Further, the respondents 3 and 4 are directed to take necessary steps together to remove the encroachment and hand over the possession of the subject property mentioned in the writ petition to the petitioner within a period of 8 weeks from the date of receipt of a copy of this order.



7. Accordingly, the Writ Petition in W.P.No.6308 of 2018 is allowed and the Writ Petition in W.P.No.8740 of 2017 is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

sp/jd

To

- 1.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.
- 2.The Managing Director,
Tamil Nadu Housing Board,
No.33, Anna Salai,
Nandanam, Chennai - 600 035.
- 3.The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road, Hosur,
Krishnagiri District.
- 4.The Executive Engineer (Head Quarters),
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai - 600 035.
- 5.The Manager,
Sales and Marketing,
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- 6.The Deputy Superintendent of Police,
Krishnagiri,
Krishnagiri District.
- 7.The District Revenue Officer,
Krishnagiri,
Krishnagiri District.
- 8.The Tahsildar,
Krishnagiri Taluk Office,
Krishnagiri District.



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The Section Officer,
Writ Section,
High Court, Madras.

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+2ccs to Mr.K.Govi Ganesan, Advocate SR.No.68462, 68463

+1cc to Mr.I.Sathish, Advocate SR.No.69156

+1cc to Mr.S.Thirumavalavan, Advocate SR.No.68172

W.P.Nos. 8740 of 2017 & 6308 of 2018
and
W.M.P.Nos.9588 & 9589 of 2017

SPD (CO)
GMY (02/02/2022)