



WEB COPY

W.A.[MD]No.1131 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. [MD]No.1131 of 2021

and

C.M.P. [MD]Nos.4935 & 4937 of 2021

T.Paulraj : Appellant/Petitioner
Vs.

1.Tamil Nadu Housing Board,
Rep. by its Chairman cum Managing Director,
Nandanam,
Chennai - 35.

2.The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit,
Ellis Nagar, Madurai - 625 010. : Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 23.02.2021 made in W.P.[MD] No.3436 of 2021, on the file of this Court and allow the Writ Appeal.

PRAYER IN WP(MD) . 3436/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent herein in Letter No.A3/PC.2/2004 dt 21.01.2021 and quash the same and further direct the 2nd respondent to receive the outstanding amount of Rs.44,89,251/- form the petitioner and execute the sale deed in favour of the petitioner and pass such further or other orders as this Honble court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellant : Mr.S.Ramsundar Vijayraj
For Respondents : Mr.Mahaboob Athiff
Standing Counsel

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

We have heard Mr.S.Ramsundar Vijayraj, learned Counsel appearing for the appellant and Mr.Mahaboob Athiff, learned Standing Counsel appearing for the respondent Board.



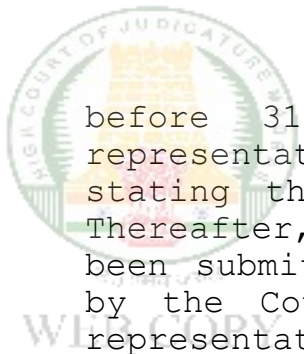
2.This Writ Appeal is directed against the order dated 23.02.2021 made in W.P.[MD]No.3436 of 2021.

3.The said writ petition was filed by the appellant to quash the order passed by the second respondent dated 21.01.2021 and for a consequential direction to execute sale deed in favour of the appellant in respect of a commercial plot which was put up for public auction in the year 2004.

4.The appellant participated in the public auction and he was declared as the highest bidder in respect of Plot No.2 and the decision to the said effect was taken by the Board on 05.04.2004 and it was communicated to the appellant on 18.06.2004. The offer made by the appellant was Rs.15,03,000/- which was accepted as the highest offer for Plot No.2, measuring an extent of 618 sq.mts. The order dated 18.06.2004, contained a specific condition that the appellant should pay 25% of the total cost which amounts to Rs.3,75,750/- within 15 days from the date of receipt of the order dated 18.06.2004. Admittedly, the appellant did not comply with the said condition. The appellant after a period of three months on 29.09.2004, remitted the balance amount of Rs.2,25,450/- and obtained the receipt from the respondent board.

5.Armed with the said receipt from the respondent Board, the petitioner filed W.P.[MD]No.9774 of 2011, praying for a direction upon the respondents to accept the balance payment and execute the sale deed in favour of the appellant in respect of the said receipt. Though, such a relief was sought for, the learned Writ Court did not grant the relief but directed the appellant to submit a representation to the respondent Board, which was directed to be considered. It is pointed out that in the order dated 12.02.2015, in paragraph No.8, it has been observed by the learned Writ Court that the allotment of the plot has not been cancelled till the date of the order. This observation appears to be incorrect because original allotment order is a self working order and admittedly, 25% full amount has not been remitted within the time stipulated and the time having not been extended by the respondent Board, such remittance beyond the period of three [3] months cannot revive the allotment which has automatically cancelled. The property is a Government property and the Housing Board has to distribute the property in the manner which is most beneficial to the interest of the Board and not public interest.

6.Thereafter, the appellant has been submitting several representations and he has issued legal notice. One Mr.S.Kabeer Ahamed, Manager, Marketing & Service, sent a communication dated 19.08.2019, stating that the outstanding dues is Rs.44,89,251/- as on 31.10.2019 and the appellant was directed to pay the amount on or



before 31.10.2019. The appellant on 20.09.2019 submitted a representation addressed to the said Manager, Marketing & Service, stating that he is ready and willing to pay the entire money. Thereafter, there was stalemate in the matter and the appellant has been submitting representations. In terms of the directions issued by the Court in W.P.[MD]No.9774 of 2011, dated 12.02.2015, the representation was considered by the Board and a decision was taken rejecting the said representation. The said order was subject matter of challenge in W.P.[MD]No.3436 of 2021, which has been dismissed and the appellant is before this Court.

7.Firstly, unless and until the appellant complies with the condition imposed by the Board within the time stipulated, no right accrues in favour of the appellant. Assuming the respondent has extended the time for payment, it is rather doubtful as to whether the decision taken by the Board for automatic cancellation can be revived by the subordinate officer, who is a Marketing Executive. In the order dated 21.01.2021, which was impugned in the writ petition, it is pointed out that an opportunity was provided to the appellant to pay the revised due as on 31.03.2014 and the appellant failed to remit the same. It is rather doubtful as to how the respondent Board can grant such extension of time and by revising the rates and without informing the public about the availability of the plot, because if the revised rate was Rs.32,75,000/- and had the property been put for public auction in 2014, in all probabilities, it would have fetched more than two times the revised rate. Being the public property, it has to be sold at the best possible rate for which public auction is the only method and the respondents are bound to do so, more particularly, when the Tamil Nadu Transparency in Tenders Act, 1998, has been enacted. Therefore, we are of the clear view that there is no vested right for the appellant to seek for execution of sale deed in respect of the said plot upon remitting the revised cost.

8.Thus, for the above reasons, we find no grounds to interfere with the above order. However, the appellant will be entitled to participate in the public auction as and when the respondent Board puts up the plot for public auction. Accordingly, the Writ Appeal stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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/ /2021

Sub Assistant Registrar(CS)



NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

1.The Chairman cum Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 35.

2.The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit,
Ellis Nagar, Madurai - 625 010.

+1 CC to M/s.S.RAMSUNDARVIJAYARAJ, Advocate (SR-19635[F] dated
18/06/2021)

W.A. [MD]No.1131 of 2021
17.06.2021

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KK(28.06.2021) 4P 4C