



W.P.No.23013 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.23013 of 2010

and MP No.1 of 2010

P.A.Vidhyaa

..Petitioner

Vs.

1. The Tamil Nadu Housing Board,
Rep. By its Chairman
Tamil Nadu Housing Board
Nandanam, Chennai 600 035
2. The Executive Engineer and
Administrative Officer,
Besant Nagar Division,
Tamil Nadu Housing Board,
Chennai 600 020
3. K.Murugaiah.,
Executive Engineer and Administrative Officer,
Besant Nagar Division,
Tamil Nadu Housing Board,



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Chennai 600 020

..Respondents

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Prayer :- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned order dt 17.7.2008 passed by the 1st respondent suspending the membership of the petitioner from the 2nd respondent exchange for a period of three years and quash the same.

For Petitioner : Mr.Mukunth
for M/s.Sarvabhauman Associates

For Respondents :Mr. R.Bharathkumar
for R1 to R3

ORDER

This writ petition has been filed challenging the proceedings dated 29.09.2010 of the 2nd respondent and for a consequential direction to the respondents to return the excess amount collected from the petitioner.

2. The case of the petitioner is that she was allotted a shop by the Tamil Nadu Housing Board through an allotment order dated 26.02.1998 wherein the total cost of a shop was fixed at



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Rs.18,71,479/- and the petitioner was directed to pay a monthly installment of a sum of Rs.49,173/- along with maintenance charges over a period of three years. This order was revised through a subsequent order passed on 07.01.2002 wherein the total cost of the shop was revised to Rs.14,77,500/- and the petitioner was directed to pay a monthly installment of Rs.24,600/- over a period of 5 years along with maintenance amount.

3. The Tamil Nadu Housing Board through proceedings dated 18.07.2002 directed the petitioner to pay a sum of Rs.11,18,433/- on or before 31.07.2002 or pay a sum of Rs.5,41,632/- within a period of 7 days from the date of receipt of the letter and get the sale deed executed in her favour failing which the allotment will be canceled.

4. The petitioner through letter dated 16.08.2002 refuted the claim made by the Tamil Nadu Housing Board and took a stand that excess amount has been paid.

5. There were subsequent correspondences between the



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parties and ultimately, through proceedings dated 05.04.2006, the petitioner was directed to pay the balance amount of Rs.9,94,762/- on or before 30.04.2006 failing which, the allotment will be canceled and the shop will be reallocated to some other person.

6. Aggrieved by the above proceedings dated 05.04.2006, a writ petition was filed before this Court in WP No.13031 of 2006 and this writ petition was entertained and an interim order was passed by this Court directing the petitioner to deposit a sum of Rs.4,00,000/- pending disposal of the writ petition. Ultimately, the writ petition was disposed of by an order dated 27.07.2010 and the relevant portion in the order is extracted hereunder :-

6. Admittedly before passing the order impugned, the petitioner has not been given any notice. The order impugned has got civil consequences and hence, she should also be heard by putting forth her objections. The second respondent will have to hear her objections before issuing the order of demand. Therefore, on the ground of the violation of principles of natural justice,



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the order impugned is set aside, by giving another opportunity to the petitioner. The second respondent shall issue a fresh show cause notice based upon which the demand is raised within a period of four weeks from the date of receipt of a copy of this order. After receiving the show cause notice, the petitioner shall give suitable reply within a period of four weeks from the date of receipt of the show cause notice. After receiving the said reply from the petitioner, the second respondent is directed to pass appropriate final orders within a period of four weeks thereafter.

7. Pursuant to the above order, the petitioner made a representation dated 21.09.2010 to the 2nd respondent and took a stand that the demand made by the Housing Board is not sustainable and that the petitioner has paid in excess of the actual cost.

8. The 2nd respondent on receipt of the said representation, through proceedings dated 29.09.2010 explained the petitioner



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about the actual balance amount due and payable by the petitioner and also provided the working sheet. Aggrieved by the same, the present writ petition has been filed before this Court.

9. The 2nd respondent has filed a counter affidavit and an additional counter affidavit. The manner in which the balance amount payable by the petitioner was arrived at has been explained in the affidavit and the same is extracted hereunder :-

4. I state that as on 05.04.2018 the petitioner due and liable to pay a sum of Rs.31,81,985/- (Rupees thirty one lakhs eighty one thousand nine hundred and eighty five only) and the payments made by the petitioner is Rs.17,85,268/- (Rupees seventeen lakhs eighty five thousand two hundred and sixty eight only).

5. I state that the outstanding amount due and payable by the petitioner is Rs. 13,96,717/- (Rupees thirteen lakhs ninety six thousand seven hundred and seventy only).



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6. The amount worked cost as on 05.04.2018 is Rs.31,81,985/-. The Demand and Collection details are as follows :-

DEMAND

Cost	:	5,17,870
Principle	:	9,59,630
Interest	:	4,66,954
Penal Interest	:	1,08,492
Maintenance Charges	:	1,12,617
Interest on B.C	:	<u>10,16,422</u>
		<u>31,81,985</u>

COLLECTION

Initial Deposit	:	5,17,870
Monthly Installment	:	7,86,768
Maintenance Charges	:	80,630
Lumpsum Payment	:	<u>4,00,000</u>
		<u>17,85,268</u>

7. The allottees should pay the the cost accumulates for 5 years is Rs. 14,76,000/- (24600 X 60). But EMT of



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Rs.24,600/- for 5 year and the petitioner has paid only a sum of Rs.7,86,768/- towards Monthly Installments and hence the Balance cost of Rs.6,89,232/- was accumulated with interest as on 05.04.2018 is Rs.11,24,899/-.

8. The allottee should pay the EMI on or before 15th of every month. But the petitioner has defaults is paying in E.M.I. the penal interest at the rate of 20% will be calculated as Rs.1,13,916/-. The Maintenance Charges is Rs.5,100/- per months for the period from 2/98 to 1/99 (i.e.Rs.5100 X 12 = 61,200/-) and Rs.591/- from 2/99 to 4/2006 (591 X 87 = 51417/-) has been worked out as Rs.1,12,617/- (61,200+ 51417).

I therefore respectfully pray that this Hon'ble Court may be pleased to direct the petitioner to pay a sum of Rs.13,96,717/ (Rupees thirteen lakhs ninety six thousand seven hundred and seventeen only) as on 05042018 together with accrued interest and to pass such further or other orders as this Hon'ble Court may deem fit under the circumstances of the case and thus render justice.



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10. Heard Mr.Mukunth, learned counsel for petitioner and Mr.R.Bharath Kumar, learned counsel for R1 to R3.

11. The petitioner is bound by the terms of the allotment order. The respondent has provided with the working sheet and also explained the balance amount due and payable by the petitioner clearly in the counter affidavit. The respondent has given credit to the amounts that have already been paid by the petitioner and calculated the balance amount payable along with interest and penal interest and it can be seen that the petitioner had to pay a sum of Rs.13,96,717/- as on 05.04.2018. This amount would have increased by now. The learned counsel for the petitioner was not able to pinpoint any apparent discrepancy or mistake in the amount calculated by the Tamil Nadu Housing Board. In the absence of any illegality or apparent arbitrariness in the demand made by the Housing Board, this Court cannot interfere with the same in exercise of its jurisdiction under Article 226 of Constitution of India.



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12. The learned counsel for the petitioner made a faint attempt to consider the reduction of the rate of interest and the waiver of the penal interest. Such reduction cannot be made by this Court unless it is agreed by the Housing Board. The learned Standing counsel for the Tamil Nadu Housing Board has taken a stand that such reduction cannot be made insofar as commercial establishments are concerned.

13. In the light of the above discussion, this Court does not find any ground to interfere with the impugned proceedings of the 2nd respondent and the demand made against the petitioner. Accordingly, this writ petition stands dismissed. No costs.

24.06.2022

Internet: Yes/No
Index: Yes/No
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To

1. The Tamil Nadu Housing Board,



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Rep. By its Chairman
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Nandanam, Chennai 600 035

2. The Executive Engineer and
Administrative Officer,
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3. K.Murugaiah.,
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N.ANAND VENKATESH,J.,

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