

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.30979 of 2005
& WPMP No.33959 of 2005

K.Subramanian

...Petitioner

vs.

The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Hosur Housing Unit, Bagalur Road,
Hosur-635 109,
Krishnagiri District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent in Letter no.HR-11/17791/95 dated 22.07.2005 and quash the same and direct the respondent to restore the allotment of HIG House no.53, Phase-VI, Avalapalli Scheme, Tamil Nadu Housing Board, Hosur to the petitioner on payment of cost of the said house with interest from October, 1996 to August, 1997.

For Petitioner : Mr.K.P.Mahesh Kumar
for Mr.P.Rajendran

For Respondent : Mr.R.Bharath Kumar

O R D E R

This writ petition has been filed by the petitioner, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the respondent in Letter no.HR-11/17791/95 dated 22.07.2005 and quash the same and direct the respondent to restore the allotment of HIG House no.53, Phase-VI, Avalapalli Scheme, Tamil Nadu Housing Board, Hosur to the petitioner on payment of cost of the said house with interest from October, 1996 to August, 1997.

2.The petitioner was working as a Teacher at the Government Higher Secondary School, Bagalur, Dharmapuri District. He applied for allotment of H.I.G. House at Phase VI, Avalapalli Scheme, Tamil Nadu Housing Board, Hosur under the

Government employees quota. The respondent Board, on 11.01.1996 made a provisional allotment to the petitioner. The tentative cost of the building including the land was fixed at Rs.6,03,500/-. As per the terms of the said allotment order, the allottee should pay a sum of Rs.2,41,400/- towards initial deposit within 30 days from the date of receipt of the allotment order. So far as the Government employees are concerned, the allottee should pay six months interest for the tentative initial deposit and monthly installment within 30 days along with the Eligibility Certificate of House Building Advance to be obtained from the Pay Drawing Officer, but the petitioner paid a sum of Rs.25,000/- towards 6 months interest on 16.03.1996 and applied for the Government loan. However, necessary certificate was not issued by the Government and as there was delay in payment of initial deposit, the petitioner made a request for extension of time to pay the initial deposit. However, the respondent has revoked the allotment on 11.01.1997 for non-payment of initial deposit. Thereafter, the petitioner obtained Loan Eligibility Certificate from the Government for availing building loan of Rs.4,00,000/- and he produced the same to the respondent on 05.01.1997. In spite of that, the respondent did not issue the A & B certificates and the demand drafts submitted by the petitioner were also not accepted. Hence, the petitioner approached this Court by way of WP No.14810 of 1997, for restoring the allotment of house and the order of interim injunction was granted restraining the respondent from allotting the said house to any other person pending disposal of the writ petition. The Writ Petition was disposed of on 24.09.2004, with a following direction:-

''A direction is issued to the second respondent to revoke the cancellation of the order dated 11.01.1997 subject to payment of dues, if any, by the petitioner. It is made clear that the petitioner shall pay not only the amount due and payable by him but also the interest, if any, accrued thereon as fixed by the second respondent. The second respondent is directed to furnish such details, particularly, the actual amount due and payable by the petitioner within a period of two weeks from the date of receipt of a copy of this order. On receipt of said communication, the petitioner shall make the necessary payment within a period of eight weeks thereafter. On such payment, the second respondent shall pass final orders as directed above within a period of two weeks from the date of payment.''

3. Thereafter, the respondent directed the petitioner to

remit a sum of Rs.14,88,170/- by its letter no.HR-11/17791/95 dated 22.07.2005. The said demand is under challenge in the present Writ Petition.

4. Thereafter, when the matter was taken up for hearing, the respondent Housing Board demanded a sum of Rs.41,00,000/- with interest and penal interest payable by the petitioner. Considering the demand and the impugned order, this Court has given a direction, which is extracted as under:-

''4. Considering the above, the petitioner is directed to submit a representation to the Revocation Committee constituted by the respondent Board for waiver or reduction of interest and penal interest accrued pending writ petition and in that event, the Revocation Committee shall consider as to whether there is any possibility of waiver of interest and penal interest or reduction of rate of interest and penal interest taking into consideration the pendency of the writ petition from 2005 onwards. The petitioner shall submit his representation as directed above within a period of one week from today and on receipt of such representation, the respondent Board shall consider and pass appropriate orders thereof within a period of two weeks thereafter''.

5. However, the request made by the petitioner was rejected vide letter no. Allotment 3(3)/562/2017 dated 18.02.2020.

6. The learned counsel for the respondent Board has come out with a calculation sheet, which includes interest and penal interest to a tune of Rs.48,06,189/-. The learned counsel has also on the directions of this Court, calculated the amount on the basis of prevailing rate of interest on the balance cost of Rs.6,03,500/- payable by the petitioner. It worked out to Rs.19,26,585/-.

7. The learned counsel for the petitioner would submit that instead of calculating the interest at the variable rate, which varies from 8% to 17%, the petitioner is agreeable to calculate @ 17% flat and as per his calculation payable by the petitioner is Rs.32 lakhs approximately.

8. I have considered the submissions made by the learned counsel on either side as regards the payment of cost. A perusal of calculation sheet produced by the learned counsel for the respondent Board, reveals that penal interest on default and maintenance charges is shown as Rs.5,30,942/- and the interest on balance costs was mentioned as Rs.17,80,227/-. But now instead of forcing the parties to continue the prolonged litigation, this Court is of the considered view, that a it

would be appropriate if a reasonable interest is fixed in order to give a quietus to this issue. The respondent Board has arrived at the principal outstanding of Rs.3,77,009/- and interest on principal amount at Rs.6,16,879/- and penal interest on default of Rs.5,30,941/- and balance of Rs.17,80,227/-. If these amounts are added, it worked out to Rs.32,92,039/- as per the calculation of sum on the basis of prevailing rate of interest, the amount payable by the petitioner to the respondent Board is Rs.25,29,585/- plus payment of penal interest of Rs.5,30,942/-. It worked out to Rs.30,60,527/-. Therefore, there is no much difference between the offer made by the petitioner to pay a sum of Rs.33,00,000/- and calculation of interest on initial deposit, penal interest and interest on balance costs, which worked out to Rs.32,95,039/-. Considering the price hike and also non-entrustment of the house to the petitioner, this Court rounds up the amount payable by the petitioner at Rs.35,00,000/-.

9. Accordingly, the petitioner is directed to pay a sum of Rs.35,00,000/- towards full and final settlement of the dues payable to the respondent Board within a period of three months from the date of receipt of a copy of this order, failing which, the petitioner is liable to pay the contractual rate of interest @ 17% on the outstanding. On payment of the entire amount, the respondent Board shall execute a sale deed and hand over the possession of the house to the petitioner forthwith.

10. This writ petition is ordered accordingly. No order as to costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To
The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Hosur Housing Unit, Bagalur Road,
Hosur-635 109, Krishnagiri District.

+1cc to M/s.R.Bharath Kumar, Advocate, S.R.No.21324
+1cc to M/s.P.Rajendran, Advocate, S.R.No.21318

W.P.No.30979 of 2005

(CO)
RGA(04/04/2022)