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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.38048 of 2015
and M.P.No.1 of 2015

S.Vinayakamurthy

...Petitioner

Vs

1.The Government of Tamil Nadu,
Represented by Chairman
and Managing Director
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

2.The Executive Engineer and ADO,
KK Nagar Division,
Tamil Nadu Housing Board,
Chennai - 600 083.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings in K.K.No.A3/1829/2011 issued by the 2nd respondent in their letter dated 02.05.2012 and quash the same as illegal and arbitrary and consequentially direct the respondents to permit the balance sale consideration within a reasonable time.

For Petitioner : Mr.A.P.Sruya Prakasam
For Respondents : Mr.R.Bharathkumar

O R D E R

The order impugned cancelling the allotment is under challenge in the present writ petition.

2.The petitioner was allotted a plot bearing No.R73 by the respondents through the sealed offer cum open auction conducted by the respondents on 05.01.2011. The petitioner offered to purchase a commercial plot bearing No.R73 at Kakalur Scheme area promoted by the respondent Board for a sum of



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Rs.11,62,000/- and the offer was accepted by the respondents by issuing an order of allotment dated 06.11.2011. However, the respondents subsequently passed the order impugned dated 02.05.2012 stating that the petitioner has not paid the amount as per the terms and conditions of the allotment.

3.The learned counsel for the petitioner made a submission that the petitioner was ready and willing to pay the amount and by that time, the order impugned has been passed. Thus, the petitioner is constrained to move the present writ petition.

4.The learned counsel for the respondents made a submission that as per the terms and conditions of the allotment, the petitioner had failed to pay 85% of the amount due and thus the cancellation order was passed in proceeding dated 02.05.2012 and the petitioner filed the writ petition in the year 2015. Thus the writ petition is to be rejected.

5.Once an order of allotment is passed accepting the terms and conditions, petitioner is bound to settle the amount as per the terms and conditions of the allotment. In the present case, admittedly the allotment was made on 06.11.2011 and the cancellation order was passed in proceeding dated 02.05.2012. The petitioner has not complied with the time bound payment as stipulated in the allotment order. However, the petitioner is attempting to take an advantage by stating that in the impugned order, the plot number has been erroneously stated as R173. This Court is of the considered opinion that typographical error will not be a ground to say that because of that, he has not paid the amount. Even before passing of the order, the petitioner was considered as a defaulter by the Board as he has not paid the amount as per the terms and conditions of the allotment. The impugned order was addressed to the petitioner and it was communicated and acknowledged by the petitioner. This being so, the typographical mistake cannot be a ground for considering the case of the writ petitioner.

6.This apart, the writ petition itself is filed after a lapse of three years from the date of passing of the impugned order. Thus, the writ petition is hit by latches. If at all, the petitioner during the relevant point of time was ready or not is the subjective satisfaction which is to be considered by the respondents. Thus, it is for the petitioner to approach the respondents for redressal of his grievances, if any is permissible



7. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cse
To

1. The Chairman Government of Tamil Nadu,
and Managing Director
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

2. The Executive Engineer and ADO,
KK Nagar Division,
Tamil Nadu Housing Board,
Chennai - 600 083.

+1 CC to Mr.R.Bharathkumar, Advocate sr 4074

+1 CC to Mr.A.P.Surya Prakasam, Advocate sr 4401

W.P.No.38048 of 2015

MT(CO)
SP(22/02/2022)