



WEB COPY



W.A.No.1153 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.1153 of 2022

1.K.J.Shahuna

2.Z.K.Shahuna

.. Appellants

Vs

1.The Chairman,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai-600 035.

2.The Executive Engineer,
Tamil Nadu Housing Board,
Anna Nagar Western Extension,
Chennai-600 101.

3.The Allottee Service Manager,
Tamil Nadu Housing Board,
Anna Nagar Division,
Chennai-600 040.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated dated 23.9.2021 made in W.P.No.40357 of 2016.



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For the Appellants : Mr.V.Prakash
Senior Counsel
for Mr.R.Vignesh

For the Respondents : Mr.D.Veerasekaran

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

The writ appeal has been filed challenging the order dated 23.9.2021 passed by the learned Single Judge in W.P.No.40357 of 2016.

2. This court, while entertaining the appeal, has passed the following order on 21.4.2022:

"Taking into consideration the facts of the case, we direct the respondents to consider the case of the writ appellants for allotment of the flat in their possession for the past 33 years for which appellants are willing to pay the cost of the flat at the relevant time. It would be as an exception and not to be taken as a precedent, if the respondents take a decision to make allotment of the plot in possession of writ appellants."



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2. The direction aforesaid has been given finding even inaction on the part of the housing board in not getting the house vacated for several years. The writ petition was filed by the writ appellants only in the year 2016. The writ appellants and the Managing Director of the Tamil Nadu Housing Board would sit together within a period of 15 days and take a decision in the matter. We expect the Managing Director to take a reasonable view in the facts and circumstances of the case and while determining the amount to be taken from the petitioner writ appellant, it would be equal to amount of the house, but cannot be on the prevalent rate, because it is a old construction raised long back, but, whatever was the cost of the flat at the relevant time, may be charged in full. Otherwise, the writ appellants are the ones who had paid the consideration to the original allottee, but facing the situation, the writ appellants are willing to pay the full amount of the flat, which otherwise would be a toll on her, but in the peculiar circumstances, they are willing to pay it. Therefore, the Managing Director would be expected to take a reasonable view in the matter.



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Let the appeal be listed on 09.06.2022."

3. Mr.D.Veerasekaran, learned Standing Counsel appearing for the respondents, submitted that respondent/Board has passed a resolution on 14.9.2022 to allot the flat in question to the appellants on payment of Rs.1,06,08,000/-. A copy of the resolution has been produced before this court.

4. Mr.V.Prakash, learned Senior Counsel appearing on behalf of the appellants, submitted that the appellants are willing to remit the entire consideration amount without prejudice to their right to challenge the fixation of the market value.

5. In view of the above, the writ appeal is disposed of with a direction to the respondent/Board to issue an allotment order in favour of the appellants forthwith. The appellants are at liberty to pay the entire consideration amount, without prejudice to their right to challenge the fixation of the market value in the manner known to law.



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There will be no order as to costs. Consequently,
C.M.P.No.7272 of 2022 is closed.

(T.R., ACJ.) (D.B.C., J.)
07.12.2022

Index : No
sasi

To:

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T.RAJA, ACJ.
AND
D.BHARATHA CHAKRAVARTHY, J.

(sasi)

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