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W.P.No.34465 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10/11/2022

C O R A M

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.34465 of 2014
and
M.P.Nos.1 and 2 of 2014

J. Shankar

...

Petitioner

Vs

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

2. The Executive Engineer
Tamil Nadu Housing Board
Salem Housing Unit
Salem 636 008.

...

Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India
praying for the issuance of a Writ of certiorarified mandamus to call for the
records pertaining to the proceedings of the second respondent vide
No.R4/1644/10 dated 21/10/2014 and to quash the same and consequently



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direct the respondents to permit the petitioner to pay the original balance amount of Rs.61,13,000/- along with reasonable interest pertaining to the allotment of Plot No.Community Centre in Attur Phase II Scheme standing in favour of the petitioner.

For petitioner	...	Mr.V.Subramanian
For respondents	...	Mr.D.Veerasekaran

ORDER

This writ petition has been filed to quash the Proceedings, dated 21/10/2014 of the second respondent, in R4/1644/10 and consequently, direct the respondents to permit the petitioner to pay the original balance amount of Rs.61,13,000/- along with reasonable interest pertaining to the allotment of Plot No-Community Centre in Attur Phase - II scheme standing in favour of the petitioner.

2. Facts leading to filing of this writ petition are as follows:-

Second respondent, decided to dispose of a plot of community centre, measuring about 11,363 sq.feet, in a scheme called Attur Phase - II by way of public auction/sealed tender. Since the petitioner's offer being



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the highest offer of Rs.84,01,000/-, the second respondent accepted the offer and decided to allot the said property of the Board through the proceedings, dated 12/10/2012.

3. At the time of auction, a sum of 22,88,000/- has been paid and the remaining 35% of the bid amount of Rs.29,35,000/- to be paid on or before 2/11/2012 and 50% of the bid amount of Rs.31,77,500/- to be paid on or before 23/11/2012. As the petitioner had developed some health problem, he could not pay the amount. Therefore, sent representation to the first respondent, on 28/1/2013, requesting time to pay the balance sum of Rs.61,13,000/- along with interest. The second respondent, through his Proceedings, dated 18/12/2013 accepted the representation and asked the petitioner to pay a sum of Rs.76,71,900/-, wherein the rate of interest was not specified.

4. When the matter stood thus, by way of impugned order, the second respondent had demanded the petitioner to pay a sum of Rs.1,43,28,000/- which is Rs.82,15,000/- more than the original balance of Rs.61,13,000/-. Being aggrieved, the petitioner has come forward with



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the instant writ petition.

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5. Heard Mr.V.Subramanian, learned counsel for the petitioner and Mr.D.Veerasekaran, learned counsel for the respondents.

6. Learned counsel appearing for the petitioner submitted that even now, the petitioner is ready to pay the amount, whereas the learned Standing Counsel appearing for the respondents submitted that as per the tender conditions, amount has not been paid in time. Even though, twice, the petitioner has been granted time, amount has not been paid. Therefore, the petitioner cannot seek for allotment on the basis of the amount claimed in the year 2014. Since, it is the commercial site, it has to be auctioned only as per the tender. Hence, opposed the writ petition.

7. Perused the entire materials available on record.

8. The petitioner has been originally allotted the subject land by way of a sealed tender. He was declared as a successful bidder. Initially, he had paid Rs.22,88,000/- and thereafter, 35% of the bid amount has to



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be paid on or before 2/11/2012 and remaining 50% of the bid amount to be paid on or before 23/11/2012. It is relevant to extract terms and conditions of auction.

(1). The amount paid for the application form is non refundable.

(2). Each application form for each unit should be accompanied by D.D for the amount of EMD as specified in the advertisement drawn in favour of the Exe.Engr & Adm Officer, Salem Housing Unit, Salem 8.

(3). Application without payment of EMD (in the form of D.D only) will be summarily rejected.

(4). EMD will not be received in the form of cash or cheque or any other instrument.

(5). It may also be noted that EMD should be given irrespective of the fact whether it is sealed offer or open auction

(6). Incomplete applications and



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applications without mentioning the site number will be summarily rejected.

(7). The applicants should inspect the site based on layout & F.M.B displayed on the Notice Board of Salem Housing Unit, no complaint or clarification after presenting the application will be entertained.

(8). Those who have submitted application for sealed tender/open auction will only be allowed to participate in the open auction.

(9). All the applications for tender/auction received by the Executive Engineer & Adm. Officer upto 11.00 a.m., on the date of auction will be opened in the presence of the applicants who choose to be present at 11.15 a.m., on the same day. The highest amount in the sealed tender will be fixed as upset price for open auction. Thereafter, open auction will be conducted. Participants with valid applications will alone be



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eligible to participate in open auction. The highest bid in the open auction will then be taken into consideration. The successful tenderer/bidders should deposit 15% of bid amount at the auction spot, 35% within 3 weeks from the date of receipt of confirmation of sale and the balance 50% after adjusting EMD already paid within 6 weeks from the date of receipt of confirmation of sale. If the successful bidder fails to pay 15% of the bid amount on the auction spot, the EMD amount paid by him/her will be forfeited. If the successful bidder fails to pay 35% within 3 weeks from the date of receipt of confirmation of sale, the EMD and 15% of the bid amount paid by him/her will be forfeited. If the successful bidder fails to pay the balance 50% after adjusting EMD already paid within 6 weeks from the date of receipt of confirmation of sale, the EMD and the bid amounts paid by him/her will be forfeited.



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(10). The auction sale is subject to the confirmation of auction sale confirmation Committee of the Board. The payment of 15% of the bid amount is only to ensure earnestness on the part of the bidder and will not confer any right on him/her to claim confirmation of the sale. If the sale is not confirmed, the EMD and 15% of the bid amount paid by him/her will be refunded without interest.

(11). The auction sale confirmation Committee of the Board reserves the rights to confirm or to reject the auction sale without assigning any reasons therefor.

12. The Tamil Nadu Housing Board will not be responsible for postal delays.”

9. The above terms are binding on the parties. If there is any infraction by any of them, they will have to suffer as per the contract.



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Having the petitioner declared as a successful bidder in the year 2012, despite several opportunities given to the petitioner, amount has not been paid. Initially, there was a demand of Rs.76,71,900/-. Thereafter, considering the representation made by the petitioner, the demand was made on 18/12/2013. The above amount has not been paid. Once again, an opportunity has been given to the petitioner by letter, dated 21/10/2014, to pay a sum of Rs.1,43,28,000/-, to avoid further interest on the balance amount and cancellation. Since the petitioner had not paid the said amount, allotment was cancelled.

10. The land in question being the commercial site, Housing Board is governed by the Statute. The land cannot be dealt in a manner as decided by the authorities. Every sale of the Housing Board should be as per the Statute and Rules and Regulations strictly. When the contract stipulates the sale should be completed within a time frame and the amount to be paid within the time, the same cannot be ignored altogether.

N.SATHISH KUMAR,J

mvs.



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11. Accordingly, this writ petition is dismissed. However, considering the judgment of the Division Bench in W.A.No.1002 and 1004 of 2020 (P.DHAMODARAN Vs. 1. THE MANAGING DIRECTOR, TAMIL NADU HOUSING BOARD, MOUNT ROAD, NANDANAM, CHENNAI AND ANOTHER) referred by the learned Standing Counsel appearing for the respondents, Housing Board is directed to refund the Earnest Money Deposit along with interest at the rate of 6% p.a., within a period of two months, from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes/No

Internet : Yes/No

mvs.

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