



W.P(MD)No.4753 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4753 of 2012
and
M.P(MD)Nos.2 and 5 of 2012

K.Sujatha

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.
- 2.The Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandhanam,
Chennai-600 035.
- 3.Auction Sale Confirmation Committee,
Represented by its Chairman and Managing Director,
Tamil Nadu Housing Board,
Nandhanam,
Chennai-600 035.
- 4.The Executive Engineer & Admn. Officer,
Madurai Housing Unit,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai-625 016.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings No.Allot.Co-or/58678/11 dated 25/11/2011 of the third respondent and quash the same in so far as rejection of sale with respect to SL.No.17 is concerned, as well as the consequential communication made in Letter No.MH-24/MDU-103/11 dated 23/12/2011 of the fourth respondent and consequently direct the third respondent to confirm the sale in favour of the petitioner with respect to the Prime Commercial site No.23/2 measuring an extent of 2,196 sq.ft. comprised in S.NO.198 of Aunppanadi Village, Madurai District on the basis of the offer made by the writ petitioner in pursuance of the action conducted on 16.09.2011 with respect to the subject property by the fourth respondent.

For Petitioner : M/s.J.Bala Meenakshi
for Mr.Pala Ramasamy
For Respondents : Mr.S.Shanmuga Vel
Additional Government Pleader
for R1
Mr.R.Siva Kumar
Standing Counsel
for R2 to R4

ORDER

The present writ petition has been filed challenging a communications of the Tamil Nadu Housing Board, wherein the auction proposal was rejected by the Sale Confirmation Committee.



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2. Admittedly, the petitioner had made an application for allotment of commercial plot by the Tamil Nadu Housing Board. She was the highest bidder for the said plot. However, the Sale Confirmation Committee of Tamil Nadu Housing Board has not accepted the said highest bid and rejected it on the ground that the application has been signed by a power agent and not by the applicant. This order is under challenge in the writ petition.

3. The learned counsel for the petitioner has contended that there is no condition or any clause in the application form that the application should be signed and presented only by the applicant and not by the power agent. Hence, the reason assigned in the impugned order for rejecting the application is not legally sustainable.

4. Per contra, the learned counsel for the respondent Housing Board has contended that unless the application is signed by the applicant, it will only be treated as an incompleted application. Moreover, the general power of attorney said to have been executed by the writ petitioner in the year 2004 and relying upon the said documents,



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the application form has been presented in the year 2011 without even mentioning whether the power deed was subsisting or not.

5. The learned counsel for the respondent further contended that the application being incompleted in nature, the Sale Confirmation Committee is entitled to reject the same. The learned standing counsel also relied upon the Division Bench of Madras High Court rendered in *W.A.No.17 of 2013*, dated 30.11.2017 (*A.N.Shanmugam Vs. The Secretary, Housing and Urban Development Department and others*). In the said judgment, the Madras High Court has upheld the power of the Auction Sale Confirmation Committee to reject the tenders. As per the judgment of the Division Bench of Madras High Court, unless the offer made by the highest bidder is accepted by the Sale Confirmation Committee, the sale contract does not even get concluded and the highest bidder would not have any vested right to make a claim before the Court.

6. I have carefully considered the submissions made on either side.



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7. Admittedly, the petitioner is a highest bidder for a commercial plot. The application filed by the petitioner has been rejected on the ground that the application has been signed by a power agent. A perusal of the power deed indicates that the power deed has been executed in the year 2004 without any reference to the application to be presented to the Tamil Nadu Housing Board. It is also not available on record whether the said power deed was in force on the date, when the power agent made an application to the Tamil Nadu Housing Board. That apart, as per the judgment of the Hon'ble Division Bench of Madras High Court as stated supra, there is no concluded contract before the offer is accepted by the Sale Confirmation Committee.

8. In view of the above said facts, I do not find that there is any merit in the writ petition. Hence, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

30.06.2022

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Index : Yes / No
Internet : Yes / No

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To

The Secretary to Government,
The State of Tamil Nadu,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009.



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R.VIJAYAKUMAR ,J.

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Order made in
W.P(MD)No.4753 of 2012

Dated:
30.06.2022