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W.P.(MD).No.5658 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 28.11.2022

ORDER PRONOUNCED ON : 30.11.2022

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.5658 of 2013
and M.P(MD).Nos.1 to 3 of 2013**

K.Raja

Vs

....Petitioner

1.The Executive Engineer Cum Administrative Officer
Tamil Nadu Housing Board
Thanjavur Housing Unit
Pudukkottai Road
Thanjavur

2.The Managing Director
Tamil Nadu Housing Board
493, Anna Salai, Nandanam
Chennai 600 035

3.The Government of Tamil Nadu
Represented by its Secretary
Housing and Urban Development Department
Fort St.George, Secretariat,
Chennai 600 009

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent letter No.R4, dated 24.02.2011 and quash the same as illegal and consequently direct the first respondent to execute the sale deed in favour of the petitioner in respect of house H.I.G, 206, Tamil University Campus, Thanjavur.



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For Petitioner : Mr.B.Jameel Arasu
For R1 & R2 : Mr.M.Suresh
Standing Counsel
For R3 : Mr.M.Lingadurai
Special Government Pleader

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein and consequently direct the first respondent to execute a sale deed in favour of the petitioner in respect of H.I.G.206, Tamil University Campus, Thanjavur.

2.According to the petitioner, the lands under reference were originally acquired for the purpose of Tamil University at Thanjavur to accommodate the delegates who attended the World Tamil Conference during January 1995. An extent of 50 acres of land of Tamil University, Thanjavur was earmarked and it was handed over to the officials of the Tamil Nadu Housing Board, Thanjavur by an order dated 02.05.1994 and the houses were constructed by Tamil Nadu Housing Board.

3.The learned counsel for the petitioner had contended that the said lands were transferred to Tamil Nadu Housing Board by G.O.Ms.No.312, Revenue (L-2) Department, dated 26.04.1994. Hence, the lands were not



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acquired for the purpose of any individual scheme of the Tamil Nadu Housing Board. He had further submitted that during May 2000, a public advertisement was made that readily built houses were available for sale in Thanjavur adjacent to the Tamil University, Thanjavur. The petitioner had applied for purchase of one H.I.G House and H.I.G No.206 having an extent of 2100 sq.feet Phase-II was allotted to the petitioner. As per the original order of allotment, the tentative cost is Rs.4,72,000/- including the land cost. The petitioner had paid the said amount in entirety. The first respondent has also given a clearance certificate on 25.03.2009 to the effect that the entire cost have been paid by the writ petitioner. Hence, according to the learned counsel for the petitioner, the petitioner is entitled to get a sale deed executed by the first respondent herein.

4.The learned counsel for the petitioner had further contended that despite several representations, the first respondent has not chosen to execute the sale deed in his favour on the ground that they have not fixed the final price of the land. He had further stated that the first respondent had fixed the final price at the time of allotment of the house itself and there is no chance for escalation of the land cost. The first respondent had addressed a letter on 24.02.2011 directing the petitioner to pay an additional amount on or before 13.06.2011. According to the petitioner, the said communication is based upon G.O.Ms.312, Housing and Urban Development Department, dated



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14.02.2011 which is not applicable to him. Since the Government land alone was utilised for construction of the house, the question of escalation of price due to land acquisition proceedings is not applicable to the facts of the present case.

5.The learned counsel for the petitioner had further contended that the Government of Tamil Nadu had issued G.O.Ms.No.67, Housing and Urban Development Department, dated 23.03.2010 and as per the said Government Order, only at the raw land cost adopted by the Housing Board for fixing the tentative land cost at the time of allotment, the land shall be alienated to the Tamil Nadu Housing Board by Government. It shall be the final land cost for the allottee and no further demand due to the reason of revision in Government land cost should be made on them.

6.The learned counsel had further submitted that in violation of the above said Government Order, the order impugned in the writ petition has been issued directing the writ petitioner to pay an additional sum towards enhanced land cost. The said order is clearly in violation of G.O.Ms.No.67, dated 23.03.2010 and hence, the same is liable to be set aside.

7.Per contra, the learned Standing Counsel appearing for the respondents 1 and 2 had contended that the allotment order dated 01.02.2004 specifically points out that a sum of Rs.4,72,000/- is a tentative land cost. The learned Standing Counsel had further contended that the petitioner has only



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paid the tentative cost of the house, but he has to pay the difference between the final cost arrived at by the Board and the tentative cost already intimated to him with due interest. He had further contended that the District Revenue Officer, Thanjavur District had recommended the land value at Rs.12/- per sq.ft in the year 1999 and capitalized cost of Rs.13.36 per sq.ft as on 30.06.2000 for the Government land and the land cost Rs.21.28 sq.ft for the year 1994 which amount was claimed by Tamil University and this was capitalised and taken into account as Rs.39.75/- sq.ft as on 30.06.2000. He had further contended that the lands were handed over to the Housing Board in the year 1994 and hence, the difference in land cost has been paid by the Tamil Nadu Housing Board to the Revenue Department and in turn the allottee is under an obligation to pay the same to the Board with due interest as per the condition of the allotment.

8.The learned Standing Counsel had further submitted that the petitioner had filed W.P.(MD).No.11194 of 2011 challenging the same impugned order and prayed for a direction to the Housing Board for execution of the sale deed in favour of the petitioner for HIG.206 Tamil University Campus. After contest, this Court had rejected the request of the petitioner and directed him to approach the Housing Board authorities with a detailed representation. However, the petitioner has not made any representation to the Housing Board in compliance with the order of this



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Court. The present writ petition has been filed challenging the same impugned order and hence, the present writ petition is not maintainable.

9.I have considered the submissions made on either side and perused the materials available on record.

10.The present writ petition had been filed challenging the communication dated 24.02.2011 under which the Executive Engineer of Housing Board had informed the petitioner that he should pay the balance amount on or before 13.06.2011 and get the sale deed executed in his favour.

11.The petitioner had earlier filed W.P(MD).No.11194 of 2011 for the same prayer and the writ petition was disposed of on 28.09.2011. Paragraph No.6 of the order is extracted as follows:

“6.At this stage, this Court is not inclined to go into the merits and demerits of the demand made by the authority or the stand taken by the petitioners. The petitioners are directed to make a detailed representation to the second respondent in the light of the decisions as referred above, as may applicable and the authority shall consider the said representation on its own merits and in accordance with law, as expeditiously as possible, preferably within a period of twelve weeks from the date of receipt of the representation of the petitioner. It is made clear that this Court does not express any opinion on the merits of the petitioner's case and the authority shall consider the same on its merits and to deal with all the issues raised in the representation as per law”



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12.A careful reading of the said order indicates that this Court has rejected a similar request of the writ petitioner. This Court had directed the petitioner to make a detailed representation to the Housing Board in the light of the decision referred in the said judgment. The authorities were directed to consider the representation on its own merits and in accordance with law within a period of 12 weeks from the date of receipt of the representation. Therefore, it is clear that the same prayer made by the writ petitioner was rejected and the petitioner was directed to make a detailed representation to the Housing Board. As rightly contended by the learned Standing Counsel for the Housing Board, the petitioner has not approached the Housing Board authorities with any representation pursuant to the orders of this Court. The present writ petition has been filed challenging the same impugned order dated 24.02.2011.

13.That apart, in the present writ affidavit, there is no reference about the filing of W.P(MD).No.11194 of 2011 or its disposal on 28.09.2011. Hence, I find that the present writ petition has been filed suppressing the order passed in the previous writ petition in which the same impugned order was challenged unsuccessfully.



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14.I do not find any merit in the present writ petition and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

30.11.2022

Internet : Yes/No
Index : Yes/No
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To

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



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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