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W.P.No.30130 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.30130 of 2013

and

M.P.No.1 of 2013

P.Jagadeeswaran

... Petitioner

Vs.

1.The Tamil Nadu Housing Board
Rep. by its Chairman & Managing Director,
Chennai.

2.The Executive Engineer
The Tamil Nadu Housing Board
Zone Chennai.

3.The Manager, (Sales & Service)
J.J. Nagar Division,
Chennai – 600 101.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the communication issued by the 3rd respondent dated 07.10.2013 in Letter No.JJA5/177/2007 demanding payment of sum of Rs.7,03,296/- with fine of Rs.1000/- and quash the same and consequently direct the respondents to receive the sale consideration as per reconciled



accounts and execute sale deed as per the allotment order dated 05.02.1998 in Letter No.177/1997.

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For Petitioner	: Mr.P.Jagadeeswaran [Petitioner-in-Person]
For Respondents	: Mr.D.Veerasekaran Standing Counsel [For TNHB]

ORDER

The order impugned dated 07.10.2013 asking the petitioner to pay the arrears of Plot cost within a period of 15 days and confirming the allotment is under challenge in the present writ petition.

2. The writ petitioner appearing in person articulated his case by stating that he had complied to the respondents for allotment of LIG housing Plot at Ambattur Scheme Phase-III in Application No.150138 dated 21.08.1997. Admittedly, a Plot No.177 LIG was allotted to the writ petitioner measuring 60 Square Meter. The Plot cost was fixed as Rs.1,04,640/- by deducting the initial amount of Rs.10,464/- the balance amount of Rs.94,176/- is to be paid in 240 equal monthly instalments of Rs.1037/- per month.



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3. The petitioner in person states the he has paid 74 monthly instalments and on account of certain personal problems, he was unable to continue his instalments. Admittedly, the petitioner committed default in payment of monthly instalments as per the terms and conditions of the allotment. The respondents / Tamil Nadu Housing Board issued show cause notice to the writ petitioner in proceedings dated 02.03.2000 and thereafter, the allotment was cancelled. The petitioner states that he has not received the cancellation order. However, the petitioner states the he was changing his address on account of personal reasons and he has not received any communication regarding the cancellation order. The petitioner further states that subsequently he made payments to the Tamil Nadu Housing Board, which all were not accounted properly. There was a calculation error on the part of the Tamil Nadu Housing Board in determining the instalment already paid and without even correcting those mistakes, the Tamil Nadu Housing Board cancelled the allotments and therefore, the order impugned is to be set aside.



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4. The learned Standing Counsel appearing on behalf of the respondents / the Tamil Nadu Housing Board raised an objection by stating that the provisional allotment order was issued on 03.12.1997 for the Plot No.177 LIG I at Ambattur Phase-III. Based on the request, the petitioner paid the initial amount of Rs.10,464/-. Regular allotment order was issued in proceedings dated 05.02.1998 and the following facts were mentioned in the allotment order:

1. <i>Extent of the Plot</i>	<i>60 Sq.Mtr.,</i>
2. <i>Cost of the Plot</i>	<i>Rs.1,04,640/-</i>
3. <i>Initial Deposit</i>	<i>Rs.10,464/-</i>
4. <i>Balance to be paid</i>	<i>Rs.94,176/-</i>
5. <i>Monthly instalments</i>	<i>Rs.1037/-</i>
6. <i>M.I. Commencement</i>	<i>October 1997</i>
7. <i>Repayment Period</i>	<i>20 years</i>
8. <i>Rate of Interest</i>	<i>12%</i>

5. As per the conditions, the monthly instalments should be paid on or before 15th of every month. The penal interest at the rate of 18% will be charged for the belated payment of the monthly instalment. In the event of default, the allotment will be cancelled. It was informed that the lease cum



sale agreement should have been executed by affixing the family photo in the presence of the competent authority.

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6. In the present case, the petitioner states that the lease cum sale agreement was executed in favour of the petitioner. However, the learned Standing Counsel for the respondents reiterated that the petitioner committed default in payment of monthly instalments and a show cause notice was issued on 02.03.2000, providing an opportunity to the petitioner to re-pay the arrears of instalment. Since the default continued, the allotment was cancelled on 23.08.2000. Even thereafter, an opportunity was provided to the writ petitioner to re-pay the arrears of instalment amount. Since the petitioner was continuously committing default, again an order was passed cancelling the allotment.

7. The learned Standing Counsel for the respondents contended that near about four times, the cancellation order was issued and despite the order of cancellations, the petitioner failed to re-pay the arrears of instalments, which were not paid by him.



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8. Pertinently, the Revocation Committee reconsidered the case of the writ petitioner and cancelled and withdrawn the cancellation order by providing opportunities on four occasions to the petitioner to re-pay the arrears of monthly instalments enabling the Housing Board to confirm the allotment. Since the petitioner was continuously committing default in payment of monthly instalments, the authorities could not confirm the allotment. Thereafter, the writ petitioner has chosen to file the present writ petition challenging the order dated 07.10.2013.

9. Even the order impugned states that the petitioner is at liberty to pay the arrears amount of Rs.7,03,296/- along with the penalty of Rs.1000/- within a period of 15 days to avoid confirmation of cancellation order. However, the petitioner has chosen to file the writ petition.

10. The petitioner states that the authorities have committed several mistakes in calculating the instalment amount and without considering those factors they have cancelled the allotment and such orders were not communicated to him.



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11. The dispute regarding calculation cannot be adjudicated in writ proceedings. If at all any error has been committed by the authorities in credit or adjusting the amount, the petitioner has to approach the competent authorities for further clarification or otherwise. Contrarily, High Court cannot adjudicate those disputed facts in a writ proceeding, which is to be done with reference to the original documents and evidences. If the grievances in this regard are not redressed, then the petitioner has to approach the Competent Forum for the purpose of resolving the issues.

12. As far as the allotment of Plot is concerned, the petitioner committed default in payment of monthly instalments and on four occasions the allotment was cancelled by the competent authorities and thereafter, they have issued the impugned order providing final chance to the petitioner to pay back the arrears and get the allotment confirmed and that was also not done by the petitioner and he has chosen to file the present writ petition.

13. When the matter is taken up for final hearing, the learned Standing Counsel for the respondents furnished a copy of the letter issued by the Manager, (Sales and Service), Tamil Madu Housing Board addressed to the



learned Standing Counsel for the respondents dated 31.01.2023. As per the said letter, the arrears amount due to be paid by the petitioner is a sum of Rs.3,76,238/-.

14. The learned Standing Counsel for the respondents made a submission that in the event of payment of the said amount along with the a sum of Rs.3000/-(Revocation Fee), the authorities would be in a position to reconsider the case of the writ petitioner for restoration of his original allotment.

15. That being the submissions made, the petitioner is at liberty to pay the arrears dues as demanded by the Tamil Nadu Housing Board for the purpose of restoration of his allotment initially made in the year 1997. If at all the petitioner has chosen to re-pay the demanded amount, it is to be done within a period of 15 days from the date of receipt of a copy of this order. In the event of failure, the Tamil Nadu Housing Board is at liberty to proceed further in accordance with the Act and Rules. If the petitioner has not paid within a period of 15 days, the authorities are empowered to deal with the property by conducting an auction in the manner known to law.



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16. With these liberties, the Writ Petition stands disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

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Index : Yes

Speaking order

Neutral Citation : Yes

To

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Chennai.

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S.M.SUBRAMANIAM, J.

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