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W.P.Nos.14906 and 14907 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.14906 and 14907 of 2023

And

W.M.P.Nos.14489, 14491 and 14492 of 2023

M.Vajravel

... Petitioner in both the W.Ps.

Vs.

1.The Tamil Nadu Housing Board

Rep. by its Chairman,
CMDA Building, E&C Market Road,
Koyambedu,
Chennai – 600 040.

... Respondent in W.P.14906/2023

1.The Tamil Nadu Housing Board

Rep. by Secretary and Personnel Officer,
CMDA Building, E&C Market Road,
Koyambedu,
Chennai – 600 040.

... Respondent in W.P.14907/2023

2.The Manager

Marketing and Service,
Tamil Nadu Housing Board,
Anna Nagar Division,
Tirumangalam,
Chennai – 600 101.

3.The Executive Engineer and Administrative Officer,

Anna Nagar Division,
Tamil Nadu Housing Board,
TNHB Office and Complex,
Tirumangalam,
Chennai – 600 101.

... Respondents in both the W.Ps.



W.P.Nos.14906 and 14907 of 2023

Prayer in W.P.No.14906 of 2023:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records pertaining to the proceedings of the third respondent bearing number A.Na.Koo. II.9 / 959 / 2016 dated 06.09.2022 and quash the same, and consequently direct the Respondents to execute the sale deed in favour of the Petitioner in respect of the Flat No.2/61, 236, LIG Residential Flat (Metro Park), Padikuppam, Chennai – 600 101 without insisting on payment of interest for delay, within a specified time fixed by this Hon'ble Court.

Prayer in W.P.No.14907 of 2023:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records pertaining to the proceedings of the first respondent bearing letter no.Allot.I.4/ 20046/2017 dated 09.03.2023 and quash the same, and consequentially direct the respondents to execute the sale deed in favour of the petitioner in respect of the Flat No.2/61, 236, LIG Residential Flat (Metro Park), Padikuppam, Chennai – 600 101, without insisting on payment of interest for delay, within a specified time fixed by this Hon'ble Court.

For Petitioner : Mr.Sharukumar, S.I.
For Respondents : Mr.D.Veerasekaan
for TNHB



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COMMON ORDER

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The petitioner has filed these writ petitions seeking issuance of Writ of Certiorarified Mandamus calling for records pertaining to the proceedings of the third respondent dated 06.09.2022 and first respondent dated 09.03.2023 respectively and to quash the same and consequentially direct the respondents to execute the sale deed in favour of the petitioner in respect of the Flat No.2/61, 236, LIG Residential Flat (Metro Park), Padikuppam, Chennai – 600 101, without insisting on payment of interest for delay, within a specified time fixed by this Court.

2.Since the issue involved in these writ petitions are related to each other, they are heard together and disposed of by way of a common order.

3.The case of the petitioner is that the petitioner applied for allocation of house at C236, Lower Income Group Residential Flat, Padikuppam, Anna Nagar West Extension Scheme and paid an initial amount of Rs.15,000/- along with the application on 15.06.2017. Thereafter, the second respondent vide letter dated 30.06.2017 informed the petitioner that he was provisionally selected for



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allotment

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of 236 LIG Flats, Flat No.2/61, III Floor under the said Scheme and was further informed that the tentative cost of the Flat would be Rs.32,91,000/-. Thereafter, in order to get the benefit under the Prime Minister Awas Yojna Scheme, the petitioner made representation to the second respondent seeking to add the name of his mother along with his name as a joint-allottee. The second respondent vide letter dated 07.07.2017, rejected the petitioner's request.

4.The further case of the petitioner is that the petitioner paid a sum of Rs.3,44,100/- out of the tentative cost of Rs.32,91,000/- and the same was also acknowledged by the second respondent vide letter dated 07.07.2017. Thereafter, the petitioner again made representation dated 14.07.2017 to the second respondent seeking to consider his request for issuing allotment order along with the name of his mother and the third respondent vide letter dated 21.07.2017 informed the petitioner that the Board has decided to consider his request and sought for some documents from the petitioner.



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5.The further case of the petitioner is that on 23.08.2017, the petitioner submitted the copies of the documents sought for from him. On 16.07.2018 the Tamil Nadu Housing Board passed final order rejecting the petitioner's request. Thereafter the petitioner paid the entire balance amount of Rs.29,46,900 to the Tamil Nadu Housing Board on 03.10.2018, however, the third respondent passed the order dated 06.09.2022 demanding a sum of Rs.4,04,570/- towards interest for belated payment and the first respondent passed the order dated 09.03.2023 directing the petitioner to pay the balance amount with eligible interest due to the allotment. Aggrieved by the same, the petitioner has filed these writ petitions.

6.The learned counsel appearing for the petitioner submitted that the petitioner applied for allocation of house at C236, Lower Income Group Residential Flat, Padikuppam, Anna Nagar West Extension Scheme and paid an initial amount of Rs.15,000/- along with the application on 15.06.2017. Thereafter, the second respondent vide letter dated 30.06.2017 informed the petitioner that he was provisionally selected for allotment of 236 LIG Flats, Flat No.2/61, III Floor under the said Scheme and was further informed that the tentative cost of the Flat would be Rs.32,91,000/-.



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Thereafter, the petitioner paid a sum of Rs.3,44,100/- and the same was also acknowledged by the second respondent vide letter dated 07.07.2017.

7.The learned counsel appearing for the petitioner further submitted that in the letter of the second respondent dated 07.07.2017, it was mentioned that the petitioner has paid the cost of Rs.3,44,100/- and the petitioner was directed to pay the balance amount of Rs.29,46,900/- in three installments, i.e., 1st Installment of Rs.16,30,500/- on or before 31.08.2017; 2nd Installment of Rs.11,51,850/- on or before 30.09.2017 and 3rd Installment of Rs.1,64,550/- at the time of handing over of flat.

8.The learned counsel appearing for the petitioner further submitted that since the petitioner's request for issuance of allotment order along with the name of his mother in order to get the benefit under the Prime Minister Awas Yojna Scheme, was pending consideration in the Board's headquarters, for more than 11 months he could not pay the amount at the scheduled time, however, after rejection of his request, he paid the entire balance amount and possession of the Flat was also handed over to the petitioner. Even



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though possession was handed over to the petitioner, sale deed was not executed in favour of the petitioner and the impugned orders were also issued to the petitioner, which is not sustainable.

9.The learned counsel appearing for the respondents submitted that admittedly, the petitioner has to pay the balance amount of Rs.29,46,900/- in three installments, i.e., 1st Installment of Rs.16,30,500/- on or before 31.08.2017; 2nd Installment of Rs.11,51,850/- on or before 30.09.2017 and 3rd Installment of Rs.1,64,550/- at the time of handing over of flat, however, he paid the entire balance amount of Rs.29,46,900/- only at the time of handing over of Flat i.e., on 04.10.2018. Hence, the Tamil Nadu Housing Board is entitled to collect interest from the petitioner for the belated payment and hence the impugned orders warrants no interference. He further submitted that as soon as the petitioner pay the amount of Rs.4,04,570/-, sale deed will be executed in favour of the petitioner.

10.Heard the arguments advanced on either side and perused the materials available on record.



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11.The facts in the present case is not in dispute. Admittedly, the petitioner was allotted Flat under C236, Lower Income Group Residential Flat, Padikuppam, Anna Nagar West Extension Scheme vide letter of the second respondent dated 30.06.2017 and was further informed that the tentative cost of the Flat would be Rs.32,91,000/-. Thereafter, the petitioner paid a sum of Rs.3,44,100/- and the same was also acknowledged by the second respondent vide letter dated 07.07.2017.

12.In the letter of the second respondent dated 07.07.2017, the petitioner was directed to pay the balance amount of Rs.29,46,900/- in three installments, i.e., 1st Installment of Rs.16,30,500/- on or before 31.08.2017; 2nd Installment of Rs.11,51,850/- on or before 30.09.2017 and 3rd Installment of Rs.1,64,550/- at the time of handing over of flat. Since the petitioner's request for issuance of allotment order along with the name of his mother inorder to get the benefit under the Prime Minister Aawas Yojna Scheme, was pending consideration in the Board's headquarters, he could not pay the amount at the scheduled time, however, after rejection of his request, the petitioner paid the entire balance amount. Though possession of the Flat was handed



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over to the petitioner, sale deed was not executed in favour of the petitioner.

13.The respondents claim that since the petitioner paid the entire balance amount of Rs.29,46,900/- only at the time of handing over of Flat i.e., on 04.10.2018. Hence, the Tamil Nadu Housing Board is entitled to collect interest from the petitioner for the belated payment.

14.This Court vide order dated 01.06.2023 had directed the third respondent to appear before this Court with all relevant records for explaining the method of calculation of interest, pursuant to which, the third respondent Mr.C.Siddhuraju, Executive Engineer, Tamil Nadu Housing Board, Anna Nagar Division has appeared before this Court today (28.06.2023) and calculation sheet has been produced before this Court.

15.Perusal of calculation sheet reveals that the petitioner has to necessarily pay interest for the belated payment and interest for the period from 01.09.2017 to 04.10.2018 has been calculated as follows:



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Due	Interest Period From To		Days	Principal/ Installment	Interest Unpaid	Amount Paid
2	01/09/2017	04/10/2018	399	1630500	178238	
3	01/10/2017	04/10/2018	369	1151850	116447	
Demand & Payment on 04/10/2018 :				2782350	294686	2946900
Balance (Prin./ Int./ Payment) :				130136	0	0

16.However, the respondents also seek penal interest from 21.12.2018 to 30.06.2023 (Rs.64,650/-) and from 05.10.2018 to 30.06.2023 (Rs.53,875/-), a sum of Rs.1,18,525/-, which in the considered opinion of this Court is not sustainable one, since the petitioner has paid the entire amount on 04.10.2018. The Tamil Nadu Housing Board is not entitled to collect penal interest from the petitioner after 04.10.2018.

17.The petitioner had already drawn a demand draft for a sum of Rs.3 Lakhs and the same was handed over to Mr.C.Siddhuraju, Executive Engineer, Tamil Nadu Housing Board, Anna Nagar Division, before this Court today (28.06.2023) by the learned counsel appearing for the petitioner. Hence, the Tamil Nadu Housing Board is directed to execute sale deed in favour of the petitioner, within a period of four weeks from the date of receipt of a copy of this order.



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18. These writ petitions are accordingly disposed of. No costs.

Consequently, the connected miscellaneous petitions are closed.

28.06.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

To

1. The Tamil Nadu Housing Board
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Chennai – 600 040.
2. The Tamil Nadu Housing Board
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M.DHANDAPANI,J.
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