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W.P.No.11985 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM
THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.11985 of 2019

S.Chithra

...Petitioner

Vs.

1. Tamil Nadu Housing Board,
Represented by its Managing Director,
No.493, Anna Salai,
Nandanam, Chennai-600 035.

2. The Executive Engineer and Administration Officer,
Special Project Division-1,
Tamil Nadu Housing Board,
C-48, Anna Nagar, Near Ayyappan Temple,
Chennai-600 040.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in letter No. SPD-A1/0403-MIG/2011, dated 07.03.2017, quash the same and direct the respondents to hand over the possession of the house site bearing plot No.403, measuring 1453 sq.ft in Special Project Division I, Kilmudaliambedu Phase II, Gummidipoondi Taluk, Thiruvallur District to the petitioner, as per the allotment order in letter No.SPD.A2/403/2011, dated 09.03.2011 of the 2nd respondent after completing the development works within a time frame fixed by this Hon'ble Court or in the alternative direct the 2nd respondent to return the amount of Rs. 3,64,000/- collected from the petitioner together with interest at the rate 12% per annum from the date of remittance to the second respondent.



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For Petitioner : Mr.Jagadish C.

For Respondents : Mr.D.Veerasekaran

ORDER

This Writ Petition has been filed seeking quashment of the order of the 2nd respondent in letter No.SPD-A1/0403-MIG/2011, dated 07.03.2017 and to consequently direct the respondents to hand over the possession of the house site bearing plot No.403, measuring 1453 sq.ft in Special Project Division I, Kilmudaliambedu Phase II, Gummidipoondi Taluk, Thiruvallur District to the petitioner, after completing the development works or in the alternative direct the 2nd respondent to return the amount of Rs.3,64,000/- collected from the petitioner together with interest at the rate 12% per annum from the date of remittance to the 2nd respondent.

2. The case of the petitioner is that, pursuant to the application made by the petitioner for allotment of Middle Income Group (in short 'MIG') house site, the respondent board allotted the house site bearing Plot No.403, measuring 1453 sq.ft in Special Project Division I, Kilmudaliambedu Phase II, Gummidipoondi Taluk, Thiruvallur District in favour of the petitioner,



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vide letter dated 09.03.2011 and directed the petitioner to remit 35% of the cost as the advance, which was also remitted by the petitioner as early as on 28.03.2011. The cost of the plot fixed by the respondent board is Rs.3,64,000/- which was paid by the petitioner, despite which, the respondent board has neither developed the plot nor handed over the house site to the petitioner. Further, as per the information furnished by the respondents under the RTI Act, it is evident that, the respondent board is not in a position to handover the house site on account of the non-execution of development works and in order to carry out the said development works, the respondent board raised the cost of the plot and issued a letter dated 07.03.2017, informing the petitioner that the cost of the plot is arrived at Rs.5,00,700/- and directed the petitioner to remit the balance principal amount with interest at 10.5% in Equated Monthly Instalments (in short “EMI”) over a period of 8 years. Challenging the said letter, the petitioner has come before this Court.

3. Learned counsel for the petitioner submitted that the allotment order in favour of the petitioner was issued in the year 2011, pursuant to which, the respondent board has not carried out any development works in



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the plot enabling the petitioner to proceed with the same. While so, without carrying out the developmental activities in the subject plot, enhancing the cost of the plot and also claiming interest on the amount of cost is wholly illegal. Hence, he submitted that, it would suffice, if this Court issues direction to the respondent board to hand over the possession of the subject plot to the petitioner, after completing the development works as expeditiously as possible without charging any enhanced amount and also interest.

4. Learned Standing Counsel appearing for the respondent board submitted that, the selling cost of the subject plot is arrived at Rs.5,01,285/- and the interest on differential cost amounts to Rs.86,976/- and the total amount payable by the petitioner towards the cost of the land is Rs.5,88,261/- and as the petitioner has already paid a sum of Rs.3,64,000/-, the balance amount to be paid by the petitioner works out to Rs.3,30,224/-. If the petitioner pays the above said balance amount, the allotment will be made in favour of the petitioner.



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5. In response, learned counsel for the petitioner submitted that, it would suffice, if this Court issues necessary direction to the respondent board to return the amount of Rs.3,64,000/- collected from the petitioner together with interest at the rate 12% per annum from the date of remittance to the 2nd respondent.

6. Heard learned counsel on either side and perused the material documents placed on record.

7. Admittedly, the respondent board allotted the house site bearing Plot No.403, measuring 1453 sq.ft in Special Project Division I, Kilmudaliambedu Phase II, Thiruvallur District in favour of the petitioner, vide letter dated 09.03.2011 and pursuant to the said allotment, the petitioner paid the entire demand amount of Rs.3,64,000/-. While such being the case, the respondent board, vide present impugned letter stated that the selling cost of the subject plot is Rs.5,00,700/- and directed the petitioner to remit the balance principal amount with interest at 10.5% in Equated Monthly Instalments and pursuant to the direction of this Court dated 18.03.2022, submitted a revised working sheet and as per which, the



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total cost of the land is arrived at Rs.5,88,261/- and did not dispute the fact that the petitioner paid a sum of Rs.3,64,000/-. However, the major grievance of the petitioner is that, though allotment was made in the year 2011, however, there was no subsequent developmental activities carried out in the allotted plot. Though it was the claim of the respondent board that there was subsequent development, no document has been submitted before this court to establish the same.

8. In view of the above, inspite of the fact that the petitioner has paid the amount of Rs.3,64,000/-, yet the respondent has not handed over the plot to the petitioner inspite of lapse of about a decade, the cost of the plot has been enhanced along with interest and the petitioner not being inclined to pay the same at this distant point of time, in view of the restricted prayer of the petitioner, this Court, without expressing any opinion on the merits of the case, for the delay caused by the respondents in handing over the plot for such a long time, directs the respondent board to return the sum of Rs.3,64,000/- paid by the petitioner without any interest within a period of two weeks from the date of receipt of a copy of this order. Failure of the respondents to return the said sum within the aforesaid period, the

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respondents would be liable to pay interest at 9% p.a. from the date of deposit of the amount till the date of payment of the amount to the petitioner.

9. With the above observations and directions, this Writ petition stands disposed of. No costs.

17.04.2023

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NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

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2. The Executive Engineer and Administration Officer,
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M.DHANDAPANI., J.

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