



W.P.No.23665 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23665 of 2019

and W.M.P.No.23497 of 2019

R.Satyanarayana

. . . Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Housing Board,
331, Anna Salai, Chennai-600 035.
2. The Executive Engineer & Administrative Officer,
K.K.Nagar Division,
Tamil Nadu Housing Board,
C-48, III Floor, II Avenue,
Anna Nagar, Chennai-600 040.
3. The Allottees Service Manager,
K.K.Nagar Division,
Tamil Nadu Housing Board,
C-48, III Floor, II Avenue,
Anna Nagar, Chennai-600 040.

. . . Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order dated 02.07.2019 which was passed by the 2nd respondent in his Letter No.KKNB7/2040/2012 and to quash the same as illegal and direct the 2nd respondent to execute a sale deed in favour of the petitioner with regard to the prime commercial plot No.19 at Arumbakkam TNUDP Scheme, consequently to refund the Petitioner, the excessively collected amount for the said allotment along with 18% interest p.a.

For Petitioner : Mr.C.T.Mohan, Senior Counsel
for K.Govindhan

For Respondents : Mr.D.Veerasekaran,
Standing Counsel.

ORDER

Aggrieved by the impugned order of the 2nd respondent, the petitioner is before this Court.

2. The petitioner purchased a commercial plot bearing No.19 at Arumbakkam sites under the scheme of Tamil Nadu Housing Board in the year 1982 for a total sale consideration of Rs.1,18,336/-. Initially, the petitioner was directed to pay 25% of the total amount and accordingly the



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petitioner has made the said payment and he was directed to pay 75% of the balance amount in 120 monthly instalments along with interest at the rate of 12% p.a. Due to default in payment of monthly instalments, allotment made in favour of the petitioner was cancelled vide letter dated 14.09.1993. After settling the entire arrear amount to the tune of Rs.76,895/- the petitioner sought acceptance of the belated payment vide his representation, pursuant to which, he was directed to pay the revocation charges of Rs.5,000/-. It is alleged that though the petitioner was ready to pay the revocation charges, the respondents refused to receive the same and have confirmed the cancellation of allotment vide letter dated 13.04.1994. While so, on 30.09.1994, show cause notice was issued to the petitioner for non-payment of penal interest and revocation charges, pursuant to which, the petitioner has paid a sum of Rs.1,21,894/-. Despite payment of the entire sale consideration and other charges, the sale deed has not been executed in favour of the petitioner, instead the impugned order dated 02.07.2019 has come to be passed confirming the cancellation of allotment made in favour of the petitioner. Challenging the same, the petitioner is before this Court.



3. Learned counsel for the petitioner submits that though the petitioner has settled the entire sale consideration along with other charges as demanded by the respondents, the allotment made in favour of the petitioner has been cancelled and the sale deed has also not been executed in favour of the petitioner. In this regard, the petitioner made several representations to the 2nd respondent requesting to execute the sale deed in his favour, however, no action has been taken on the same. Hence, the order of cancellation of allotment order is without any basis and the same is liable to be set aside.

4. Learned Standing counsel appearing on behalf of the respondents submits that initially, the petitioner was issued with show cause notice for non-payment of monthly instalments, pursuant to which, the petitioner did not make any payment within the stipulated period which resulted in cancellation of allotment. Upon noting the petitioner's representation, the petitioner was directed to pay the revocation fees which was also not paid by the petitioner. Further, the petitioner was issued with show cause notice for non-payment of penal interest and the revocation charges, however, the said payment was also not made by the petitioner,



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which shows that the petitioner is a chronic defaulter in paying the monthly instalments and other outstanding dues. Therefore, after a lapse of more than two decades, the claim of the petitioner for revocation of the cancellation order cannot be entertained. Hence, the order confirming the cancellation of allotment order needs no interference.

5. This Court heard learned counsel appearing on either side and perused the materials available on record.

6. Admittedly, there was a default in payment of monthly instalments as also the penal interest and revocation fees, for which show cause notice was issued to the petitioner directing him to settle the outstanding dues within the stipulated time, however, due to non-payment of the same, within the time prescribed in the show cause notice, the allotment made in favour of the petitioner was cancelled. However, it is the claim of the petitioner that subsequent to the cancellation of allotment order, the petitioner has settled the outstanding dues including other charges.



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7. Though the petitioner claims that he has settled the entire outstanding dues, upon rough calculation arrived by this Court, the outstanding dues payable by the petitioner comes around a sum of Rs.3 lakhs excluding the interest component and necessarily, the petitioner has to pay the said amount to the respondents for execution of the sale deed.

8. It is to be pointed out that the allotment was made two decades before and due to the default committed by the petitioner, the present situation has arisen. However, it cannot be gainsaid that the petitioner has not paid any amount. The petitioner has paid certain amounts which have not been disputed by the respondents. In such a backdrop, it would not be in the interest of either party to have the allotment cancelled at this distant point of time and this Court has to weigh the balance of convenience so that none of the parties are put to prejudice.

9. In order to give quietus to the issue, this Court directs the petitioner to pay a sum of Rs.3 Lakhs to the 2nd respondent towards the outstanding dues within a period of eight weeks from the date of receipt of a



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copy of this order. Upon receipt of the said payment, the 2nd respondent is directed to execute the sale deed in favour of the petitioner within a period of four weeks thereafter.

10. Accordingly, the impugned order passed by the 2nd respondent is set aside and this Writ Petition stands allowed with the above direction. If the petitioner fails to pay the aforesaid amount within the aforesaid period, the impugned order passed by the respondents would stand revived. There shall be no order as to costs. Consequently, connected Miscellaneous petitions are closed.

26.06.2023

Index : Yes / No
Internet : Yes / No

NHS



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M.DHANDAPANI, J

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