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W.P.No.21972 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.21972 of 2017 and
W.M.P.No.23022 of 2017

A.Raju .. Petitioner

vs

1. Tamil Nadu Housing Board
Rep. by its Managing Director
No.493, Anna Salai
Nandanam, Chennai – 35.

2. Executive Engineer – cum –
Administrative Officer
Villupuram Housing Unit
Tamil Nadu Housing Board
Villupuram.

.. 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 of the impugned communication of the second respondent herein in his order dated 15.05.2017 in the Letter.No.R8/2180/2007 and quash the same and consequently direct the respondents herein to confirm the allotment of residential plots in Plot.No.104 and 105 in Villupuram Maharajapuram Housing Scheme in other orders.

For Petitioner : Mr.P.Dinesh Kumar

For Respondents : Mr.D.Veerasankaran
For R1 & R2



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ORDER

The order dated 15.05.2017 passed by the Executive Engineer - cum - Administrative Officer of the Tamil Nadu Housing Board, asking the petitioner to pay the plot cost of Rs.20,78,679 for the plots allotted in favour of the petitioner is under challenge in the present writ petition.

2. The land belonging to the father of the petitioner in S.No.4/4A measuring to an extent of 0.09.50 hectares was acquired by the Government for the purpose of allotting plots in Tamil Nadu Housing Board under the Villupuram Maharajapuram Housing scheme.

3. It is not in dispute that the father of the petitioner received compensation for the acquired land during the relevant point of time. Reference was made and the LAOP.No.63 of 1997 was filed before the Sub-Court Villupuram. The L.A.O.P was subsequently dismissed as not pressed in view of the fact that the father of the petitioner was allotted two HIG plots under the ex-land owners category, subject to payment of land cost and other charges in respect of the allotted plots. Under the category of ex-land owners, two HIG plots were allotted in the name of the mother of the petitioner. It is not in dispute that the allotment was made subject to



the payment of land costs and other charges.

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4. The petitioner committed default in payment of initial cost and the balance cost of the plots by way of monthly installments. The initial cost of Rs.7,21,680/- per plot is to be deposited and the balance cost is to be made by way of monthly installments of Rs.7,840/- for each plot for a period of ten years along with 18% interest per annum. In the event of default, the allotment will be cancelled. The original allottee, who is the mother of the petitioner Tmt.Pounammal died before the allotment order was made in favour of her and therefore, the Board has not cancelled the allotment order, even though the initial deposit was not paid as per the allotment conditions.

5. The writ petitioner Mr.A.Raju is one of the legal heirs of the allottee Tmt.Pounammal and made an application on 20.10.2009 before the second respondent to transfer the allotment in respect of the plot Nos.104 and 105 of Villupuram Maharajapuram Housing scheme in favour of him. Accordingly, the Board transferred the allotment in favour of his interest as per his request and issued a communication dated 02.07.2014. In the said communication, it was informed that the cost of the plot will be



intimated to the petitioner after getting approval from the Board. Based on the Board's approval, the cost of Rs.18,16,942/- for each plot was intimated to the writ petitioner. Under those circumstances, the petitioner claims that the Tamil Nadu Housing Board would allot the plots on free of costs, if he do not press the case for enhancement of compensation.

6. The learned counsel for the petitioner contended that the family of the petitioner parted with their available land in the acquisition proceedings and therefore, they are entitled to get the plot on free of cost. That apart, the LAOP pending before the Sub-Court for enhancement of compensation was not pressed under the fond hope that the allotment will be made at free of costs. It is further reiterated that the Tamil Nadu Housing Board promised that they will allot the plot at free of cost in the event of not pressing the LAOP. Thus, the writ petition is to be considered.

7. The learned counsel for the petitioner further states that the claim now made by the respondents is beyond the limitation period and therefore, now, they cannot ask the petitioner to pay the enhanced cost, which is barred by a period of limitation. The petitioner has been deprived of claiming the enhancement of compensation in LAOP proceedings and



thus, the allotment is to be confirmed at free of costs.

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8. The learned counsel appearing on behalf of the Tamil Nadu Housing Board strenuously raised an objection by stating that the terms and conditions stipulated in the allotment order are unambiguous. No doubt, the land belonging to the father of the petitioner was acquired by the Government and the Government paid compensation, which was received by the father of the writ petitioner. The acquisition proceedings made by the Government is for the benefit of the Tamil Nadu Housing Board and therefore, the subsequent procedure of the Tamil Nadu Housing Board is independent and separate. The Tamil Nadu Housing Board allotted two HIG Plots in favour of the Mr.M.Elumalai, father of the writ petitioner under the ex-land owner category. Thus, this allotment resulted in the acquisition proceedings and they are not exempted from paying the plot cost since the owners received compensation in accordance with law.

9. The father of the writ petitioner died even before the allotment and therefore, the allotment was made in favour of the mother of the writ petitioner Tmt.Pounammal. The mother of the writ petition also did not pay the initial cost, as reminded by the Tamil Nadu Housing Board within



the time stipulated. She died subsequently. The Tamil Nadu Housing Board has not cancelled the order since the allottee died. However, one of the legal heirs / the writ petitioner submitted an application to transfer the allotment in his favour which was considered by the Board and payment of the plot cost was intimated.

10. The mother of the petitioner, who was the original allottee to the two HIG plots failed to pay even the initial cost fixed by the Tamil Nadu Housing Board. After her death, one of her legal heirs submitted an application for transfer of allotment which was considered by the Board and accordingly, allotment was transferred on a condition to pay the plot cost. The petitioner also failed to pay the plot cost. Contrarily, the petitioner has now made a submission that the plots must be allotted on free of cost as per the terms made by the Tamil Nadu Housing Board at the time of acquisition. However, there is no document on record to establish that any such terms has been made by the Tamil Nadu Housing Board, either to the father of the writ petitioner or to the mother of the writ petitioner, who was the original allottee of the HIG plots.



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11. In the absence of any such order, the petitioner now states that the plots should be allotted on free of cost. The withdrawal of LAOP proceedings by the land lessor was on the ground that he will be preferred allotment under ex-landowner category. Therefore, the said proceedings are no way connected with the subsequent allotment made in favour of the writ petitioner by way of transfer after the death of the original allottee Tmt.Pounammal.

12. In any angle, the petitioner is not entitled for the relief, since he has not paid the initial plot cost and the installments fixed by the Tamil Nadu Housing Board. The question of allotting plots on free of cost does not arise since there is no such order or otherwise passed at the time of the allotment or at the time of acquiring the land belonging to the father of the writ petitioner. This being the factum, the petitioner is at liberty to pay the entire plot cost within a period of six weeks from the date of receipt of a copy of this order, failing which, the Tamil Nadu Housing Board shall cancel the allotment without granting further time or otherwise.

13. The respondent Tamil Nadu Housing Board is directed to consider the case of the writ petitioner for granting of waiver of portion of



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interest or otherwise, as the case may be, in accordance with the Rules,
since the original allotment was made under the ex-landowners category.

14. With these directions, the writ petition stands dismissed.

There will be no order as to costs. Consequently, the connected
miscellaneous petition is also closed.

Index : Yes/No

13.04.2023

Neutral Citation : Yes/No

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To:

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S.M. SUBRAMANIAM, J.

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