



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.363 of 2022

M.Veerasubramanian

... Petitioner

vs.

1.The Chief Engineer,
Tamil Nadu Urban Habitat Development Board,
Chennai.

2.The Executive Engineer,
Tamil Nadu Urban Habitat Development Board,
Madurai Region,
169, K.K.Main Road, Madurai - 625 020.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the impugned order in Na.Ka.No.1002/SaVa.A/2020 dated 11.11.2021 on the file of the second respondent and to quash the same and to direct the second respondent to grant the subsidy on the basis of sanction order, dated 24.08.2018.

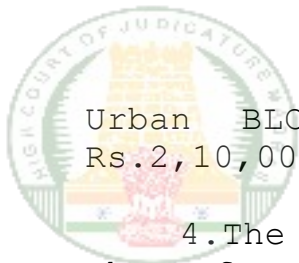
For Petitioner : Mr.S.Mahesh Babu
For Respondents : Ms.Latha.S, Standing Counsel

O R D E R

The Writ Petition has been filed in the nature of a Certiorified Mandamus seeking interference with an order, dated 11.11.2021 passed by the second respondent in Na.Ka.No.1002/Sa.Va.A./2020 and consequently, to grant subsidy on the basis of sanctioning order, dated 24.08.2018 to the petitioner herein.

2.Heard Mr.S.Mahesh Babu, learned Counsel for the petitioner and Ms.S.Latha, learned Standing Counsel for the respondents.

3.In the affidavit filed in support of this Writ Petition, it had been stated that in the residential site at Kumaran Village in S.No.34/9A1, the petitioner had decided to construct a house and had approached the respondents for granting subsidy under PMAY-HFA



Urban BLC. Sanction was granted on 24.08.2018 at Rs.2,10,000/- to be paid in four months.

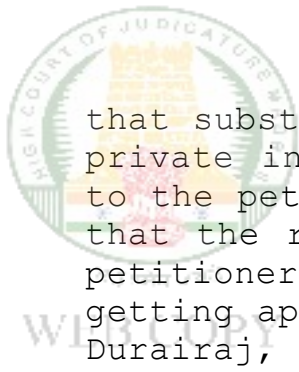
4.The learned Counsel for the petitioner stated that thereafter, the petitioner had commenced the construction and it is specifically informed that at every stage of the construction, the petitioner had telephonically informed the second respondent. It is also stated that one Durairaj, who is working under the second respondent had visited the place and had inspected the ongoing construction and had given periodical reports to the second respondent.

5.It is stated that since COVID-19 pandemic occurred, the file for payment of subsidy was not processed. The petitioner however continued to construct the building and it is stated in the affidavit that the petitioner was under the impression that the subsidy would be released after the relaxation of restriction owing to COVID-19 pandemic. The petitioner had arranged for loan from Bank and also obtained private loan and constructed the house stage by stage.

6.After completing the construction, he informed the same to the second respondent. It is stated in the affidavit that an employee of the second respondent, Vignesh had inspected the house on 02.03.2021 and had taken photographs and had stated that ground floor measured 722 sq.ft including portico and without the portico, the ground floor measured 570 sq.ft and the first floor construction was of 190 sq.ft. The petitioner then sought subsidy. However, in the impugned order, the same was refused by stating that the petitioner had totally constructed 912 sq.ft., construction in the ground floor and 120 sq.ft in the first floor totally 1102 sq.ft., whereas, the subsidy was offered only on the basis that the petitioner would put up construction of 300 sq.ft. Since there was a violation of the terms, the subsidy was refused to be disbursed by the second respondent. Questioning that particular order, the Writ Petition has been filed.

7.The learned Counsel for the petitioner reiterated the facts as stated in the affidavit and contended that one Durairaj, who was working under the second respondent office, had periodically inspected the construction and had also given inspection report to the second respondent. It is stated that as against the said Durairaj, a complaint had also been lodged by the second respondent. These informations had been further substantiated by informations received under the Right to Information Act, 2005.

8.The learned Counsel for the petitioner stated that in view of the dispute between the second respondent and the said Durairaj, the petitioner had been made as scapegoat and contended



that substantial loan has been obtained from the Bank and private individuals on the belief that subsidy would be paid out to the petitioner herein. The learned Counsel therefore contended that the reason for denial of subsidy could not be thrust on the petitioner herein, since the construction was done only after getting approval and after the same had been inspected by the said Durairaj,

9.The learned Standing Counsel for the respondents however disputed the said facts.

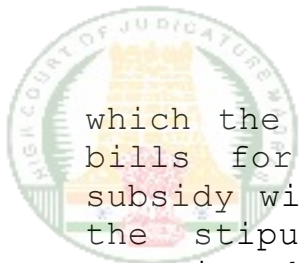
10.A counter affidavit had been filed on behalf of the respondents, wherein, it had been stated that the sanction was only for construction of 300 sq.ft., and at every level of construction, namely, after completion of basement level, after completion of lintel level and after completion of roof level and after completion of entire building, periodical reports will have to be forwarded and geo-tag photographs will have to be taken and forwarded to the respondents. It had been stated that the petitioner had not complied with any of those requirements.

11.The reliance placed by the learned Counsel for the petitioner on the activities of the said Durairaj was specifically denied by the learned Standing Counsel for the respondents herein. It is contended that permission was granted only for construction of 300 sq.ft, of construction and violating the same, the petitioner had totally constructed 1102 sq.ft. and it is contended that in view of such violation, the respondents were not obliged to extent any subsidy to the petitioner.

12.I have carefully considered the arguments and also the records.

13.The learned Counsel for the petitioner had produced information received through Right to Information Act about the said Durairaj and it is seen that Durairaj was an employee, but was no longer an employee. But the onus was on the petitioner herein. When he had put up basement, he had to take geo-tag photographs and write a letter and forward that to the second respondent.

14.The issue relates to subsidy, which is extension of public money to the petitioner herein. It can be extended only when proper records are produced by the petitioner. At the completion of construction of every stage, namely, at the completion of basement level, at the completion of lintel level , at the completion of roof level and at the completion of entire building, geo-tag photographs should necessarily have to be taken, proof will have to be given about the costs, about the dates on



which the construction was conducted, the materials purchased and bills for the same will have to be produced and thereafter, subsidy will be extended. The construction should also be within the stipulated area as given in the sanction. The total sanctioned amount was Rs.2,10,000/- with Rs.50,000/- for the first three instalments and Rs.60,000/- after completion of the entire building.

15.The petitioner had violated each and every clause. He had not provided geo-tag photographs. He had not provided any proof that there was inspection. He had not provided any proof that he had forwarded letters to the second respondent about the stages of the completion of construction at each stage. He had violated even the area to be constructed, which had far exceeded the 300 sq.ft and had put up construction for 1102 sq.,ft., totally in the ground floor and in the first floor. There is complete violation of the terms of sanction and on the terms on which the subsidy was proposed to be granted by the second respondent.

16.The petitioner cannot fall back on the lame excuse of one individual Durairaj. If he does so, then he may very well collect whatever amount he wants to collect from the said Durairaj, but certainly not from the respondents herein, who are not obliged to grant subsidy when there is violation at each and every stage by the petitioner herein.

17.The learned Counsel for the petitioner stated that the second respondent was telephonically informed at each and every stage of the construction. I totally disbelieve that particular statement and hold that it is stated only for the purpose of argument.

18.For the reasons stated above, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS I)

// True Copy //

/07/2023

Sub Assistant Registrar(CS)

cmr

+1 CC to M/s.S.MAHESH BABU, Advocate (SR-28184[F] dated 15/06/2023)

+1 CC to M/s.S.LATHA, Advocate (SR-28423[F] dated 15/06/2023)

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