



W.P(MD)Nos.5874, 7721 of 2013 & 18638 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 24.04.2023

CORAM :

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P(MD) Nos. 5874 & 7721 of 2013 & 18638 of 2016
and
WMP(MD) No.13484 of 2016 in
W.P(MD) No.18638 of 2016

1.S.Isakki
2.S.Muthusamy

Petitioners in
WP(MD)Nos.5874 of 2013
& 18638 of 2016

I.Sankara Kumar

Petitioner in
WP(MD)No.7721 of 2013

Vs

1.The Chairman cum Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai – 600 035.

2.The Executive Engineer & Administrative Officer,
Tamil Nadu Housing Board,
Madurai Unit,
Ellis Nagar,
Madurai – 625 016.

Respondents in all WPs



W.P(MD)Nos.5874, 7721 of 2013 & 18638 of 2016

PRAYER in W.P(MD) No. 5874 of 2013: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the second respondent issued vide letter No.A3/6153/91, dated 03.04.2012 and quash the same as illegal and consequently direct the respondents to refund the excess amount of Rs.5,62,507/- upto 29.02.2012 collected from the petitioners along with further 6% interest per annum from 01.03.2012 to till the date of refund.

PRAYER in W.P(MD) No. 7721 of 2013: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned letter No.MH-08/566/1984, dated 08.03.2013 issued by the second respondent and quash the same as illegal and consequently direct the respondents to refund the balance amount of Rs.83,566/- with interest at the rate of 6% per annum with effect from 01.08.2012 to till the date of actual payment.

PRAYER in W.P(MD) No. 18638 of 2016: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned letter No.A3/6153/91, dated 25.08.2015 issued by the second respondent and quash the same as illegal and consequently direct the respondents to re-allot and execute sale deed for the peace



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of land measuring 677 sq.ft adjacent to the house of the petitioners in RH No.328, Ellis Nagar, Madurai at the cost fixed by the Apex Court in Civil Appeal No.1805 of 2007 and batch dated 02.09.2008.

For Petitioners :Mr.C.Arul Vadivel Alias Sekar
Senior Counsel
For Respondents :Mr.R.Sivakumar

(In all WPs)

COMMON ORDER

These writ petitions are filed as against the letters of the second respondent in A3/6153/91, MH-08/566/1984, and A3/6153/91, dated 03.04.2012, 08.03.2013 and 25.08.2015 respectively, intimating the petitioners that the excess amount paid by them along with an interest at the rate of 6%, in respect of the allotment of houses under Ellis Nagar Scheme has been settled to the petitioners by way of cheques.

2.The petitioners are the allottees of RH type houses of Ellis Nagar on 20.03.1992, 20.08.1984 and 20.03.1992 respectively. These lands were originally allotted for a sum of Rs.3,01,645/- for



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the petitioners in WP(MD) Nos.5874 of 2013 & 18638 of 2016 and for a sum of Rs.33,500/- to the petitioner in W.P(MD) No.7721 of 2013. However, the final cost of these lands was revised by the Housing Board as Rs.6,32,630/- per ground, as per the Government Order in G.O.Ms.No.63, dated 02.02.2001 and the above Government order was challenged by way of writ petitions. Those writ petitions were allowed by this Court, by order dated 16.10.2006 and the land cost was reduced to Rs.3,49,100/- per ground with 5% nominal profit. This issue has been taken upto the Honourable Supreme Court and the Honourable Supreme Court has held that long drawn multi-round litigations could be put an end by modifying the direction of this Court with regard to the interest on the difference in land cost, by altering the date of commencement of interest as 01.01.2001 instead of 21.05.2004. Accordingly, the Honourable Supreme Court has modified the order of this Court, as agreed by the parties for the modification of the date of commencement of interest as 01.01.2001 instead of 21.05.2004 with reference to the final land cost of Rs.3,49,100/- (with 5% profit) per



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ground as on 31.12.2000. In the meantime, the petitioners have paid the entire amount of Rs.6,32,630/- as claimed by the Housing Board. In view of the order of the Honourable Supreme Court, the petitioners have made representations to refund the excess amount. Accordingly, the Tamil Nadu Housing Board has calculated the difference amount as per the directions of this Court as well as the Honourable Supreme Court and has also refunded the excess amount through cheques. However, the petitioners have disputed the quantum arrived at by the Housing Board. The petitioners claim that the respondent Board has to pay more than the amount, which has been refunded by the Board. The Board claims that the amount has been calculated in accordance with the orders of this Court and as per the provisions and Rules. The Board has also furnished the memo of calculation to that effect.

3.The learned senior counsel appearing for the petitioner sought time and expressed that he is not in a position to get instructions from the petitioners.



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4. Admittedly, the petitioners were allotted RH type houses of Ellis Nagar in the years 1984 and 1992 and the cost was fixed at Rs.3,01,645/- and Rs.33,500/-. However, the final cost of these lands was revised by the Housing Board in the year 2001 as Rs.6,32,630/- per ground. Challenging the same, the petitioners filed writ petitions and this Court, by order dated 16.10.2006 has reduced the land cost to Rs.3,49,100/- per ground with 5% nominal profit. Subsequently, this issue went upto the Honourable Supreme Court and the Honourable Supreme Court has modified the order inasmuch as the commencement of interest period. The respondent Board claims that they have refunded the excess amount through cheques and they have also filed a calculation memo before this Court. However, the petitioners have disputed the quantum arrived at by the Housing Board. This Court cannot conduct a roving enquiry and this writ petition is pending from the year 2013. If there is any dispute over the amount arrived at by the Board, the remedy available to the petitioner is to approach the competent civil Court.



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5.The petitioner in WP(MD) No.18638 of 2016 claims that there is a vacant land measuring 677 sq.ft, adjacent to his house, which belongs to the Housing Board. As the petitioner is willing to purchase the said land at the market value as prescribed by the Housing Board, he prays a direction may be issued to the Board to execute a sale deed in favour of the petitioner for the above land.

6.The learned counsel appearing for the Board submits that they are not having any proposal for the development of the above land and also there is no construction over there. However, the land can be sold only by way of auction as per the Rules and Regulations of the Board.

7.In view of the above submission made by the learned counsel for the Board, the petitioner in WP(MD) No.18638 of 2016 is at liberty to purchase the land from the housing board by way of participating in the auction, which will be conducted by the Board within a period of one year. The respondent Board is directed to



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furnish a calculation memo to the petitioner, explaining how the amount has been arrived in accordance with the orders of this Court and the Honourable Supreme Court within a period of four weeks from the date of receipt of a copy of this order. If the petitioner is having any grievance on the calculation memo, it is open to the petitioners to challenge the same in the manner known to law.

9. Accordingly, these writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

24.04.2023

NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

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