



W.A(MD)No.392 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.A(MD)No.392 of 2023

and

C.M.P.(MD)No.4256 of 2023

1.The Chairman and Managing Director,

Tamil Nadu Housing Board,

Nandanam, Chennai-600 035.

2.The Executive Engineer and Administrative Officer,

Tamil Nadu Housing Board, Ellis Nagar,

Housing Unit, Ellis Nagar,

Madurai, Madurai District.

... Appellants / Respondents 1 & 2

-Vs-

1.T.Thirunarayanan

... 1st Respondent / Writ Petitioner

2.The District Collector,

District Collector's Office,

Madurai, Madurai District.

... 2nd Respondent / 3rd Respondent



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PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying this Court to set aside the order dated 05.09.2022 made in W.P(MD)No.12719 of 2015.

For Appellants : Mr.A.Kannan
For R1 : Dr.R.Rajagopal,
For Ms.R.Jansirani
For R2 : Mr.V.Nirmal Kumar,
Government Advocate

JUDGMENT

*[Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**]*

The Tamil Nadu Housing Board is on appeal. It claims to be aggrieved by the order of the Writ Court in W.P.(MD)No.12719 of 2015, dated 05.09.2022.

2.Challenge in that Writ Petition was to the demand made by the Housing Board, demanding additional cost with interest from the writ petitioner. The issue relating to the payment of interest on the additional cost was finally decided by the Hon'ble Supreme Court of India in Civil Appeal No.1805 of 2007, dated 02.09.2008, wherein, the Hon'ble Supreme Court fixed the period, for which the Housing Board is entitled to claim interest, as from 01.01.2001 to 30.11.2008.



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3. During the pendency of the proceedings, the writ petitioner, who was living in Madurai, had shifted to Trichirappalli and addressed communications to the Housing Board on 03.10.2005 and 23.02.2006 regarding the change in his address. However, pursuant to the orders of the Hon'ble Supreme Court, the Housing Board appears to have sent notices to the Madurai address of the writ petitioner on 26.11.2008. Naturally, they are not served on the writ petitioner, since he was not residing at the said address at the relevant point of time. There again, the writ petitioner sent a representation dated 31.03.2009, requiring the Housing Board to send a demand notice to him as per the directions of the Hon'ble Supreme Court.

4. Since the said request was not complied with, the writ petitioner approached this Court in W.P.(MD)No.4045 of 2009, seeking a Writ of Mandamus, directing the Housing Board to issue a demand notice to him. On 29.09.2009, this Court issued a direction. Pursuant to the said direction, the demand notice was served on the petitioner on 25.11.2009, requiring him to pay a sum of Rs.4,29,744/- (Rupees Four Lakhs Twenty Nine Thousand Seven Hundred and Forty Four Only).



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5.The petitioner challenged the said demand notice in W.P.(MD)No.3022 of 2010 solely on the ground that the interest was calculated not upto 31.11.2008 but upto 25.11.2009. This Court, by order dated 23.04.2014, quashed the demand, as it was against the order of the Hon'ble Supreme Court and required the Housing Board to make a demand strictly in terms of the order of the Hon'ble Supreme Court.

6.Thereafter the present demand was issued claiming a sum of Rs.5,33,563/- (Rupees Five Lakhs Thirty Three Thousand Five Hundred and Sixty Three Only). This demand included the interest upto the date of the demand ie., 09.02.2015. This was again challenged by the writ petitioner in W.P.(MD)No.12719 of 2015. The Writ Court, after taking note of the earlier orders, concluded that the demand made by the Tamil Nadu Housing Board, seeking interest till 2015 is wholly unjust and against the orders of the Hon'ble Supreme Court. The Writ Court also pointed out the fact that this Court has even in W.P.(MD)No.3022 of 2010 made it very clear that the interest is chargeable only upto 30.11.2008 and not beyond that. In view of the clear direction of the Hon'ble Supreme Court to effect that the interest on additional cost would be levied only upto 30.11.2008, the action of the Housing Board in



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charging interest for the subsequent period was rightly set aside by the Writ Court. The Writ Court has also given liberty to the Housing Board to make a fresh demand by including the interest from 01.01.2001 to 30.11.2008 alone. All that the Writ Court has done is to ensure the compliance of the orders of the Hon'ble Supreme Court.

7.In such view of the matter, we do not find any merit to entertain this Writ Appeal. The Writ Appeal, therefore, fails and it is, accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M.,J.] & [L.V.G.,J.]

10.04.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No

MYR

To
The District Collector,
District Collector's Office,
Madurai, Madurai District.



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AND
L.VICTORIA GOWRI, J.
MYR

JUDGMENT MADE IN
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