



W.P(MD)No.771 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 04.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.771 of 2014
and
M.P.(MD)Nos.2 & 3 of 2014**

1.A.Fathima Jothi

2.Paul Berlin

3.Prakash

4.Babu

... Petitioners

Vs.

1.The Branch Manager,
SIDCO Branch Office,
Industrial Colony,
Ariyamangalam,
Trichy-10.

2.The Managing Director,
Tamil Nadu Small Industries Development Corporation,
Thiru.Vi.Ka.Industrial Estate,
Guindy,
Chennai-32.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Impugned notice of the 1st respondent



W.P(MD)No.771 of 2014

in na.Ka. No.1358/C/13 dated 21.10.2013 and 29.11.2013 and quash the same and direct the respondents to pass necessary orders to enable the petitioner to remit the sale consideration of Rs.9,600/- and execute the sale deed for the old tenement No.2 SIDCO Industrial Colony, Ariyamangalam, Trichy - 10, in favour of the Petitioner as outright sale.

For Petitioner : Mr.K.Muthumalai

For Respondents : Mr.I.Murugesan
Standing Counsel

ORDER

Heard the learned counsel on either side.

2. Thiru.Arockiasamy joined SIDCO as Plumber in the year 1982. He was transferred and posted at SIDCO Industrial Colony, Trichy in the year 1974. He continued to work there till he reached the age of superannuation in September 2000. During his service, he was allotted the petition mentioned labour tenement. He retired from service in September 2000. He passed away on 06.02.2010. The petitioners are his legal heirs. They are in occupation of the allotted tenement till now. The impugned eviction notice was issued in the name of the deceased Arockiasamy. Since the petitioners are directly affected, they filed the

2/10



W.P(MD)No.771 of 2014

present writ petition. While admitting the writ petition, interim stay was granted by this Court. Interim order is continuing till now. The prayer in the writ petition is that SIDCO should be directed to sell the petition mentioned tenement for a sum of Rs.9,600/- in favour of the petitioner. The question that arises for consideration is whether the impugned eviction notice should be set aside and SIDCO directed to sell the tenement to the petitioner.

3. I must appreciate SIDCO for having filed counter affidavit containing true averments. The petitioner has not enclosed the copy of the allotment proceedings. But in the counter affidavit, it has been stated that the petitioner was allotted the labour tenement. Such fairness is expected of the Government corporation. It is not in dispute that G.O.Ms.No.128, Housing and Urban Development, dated 24.03.1997 issued by the Government for selling the tenements to the allottees on outright basis. The sale consideration was fixed at Rs.9,600/-. The scheme was extended even to retired employees / legal heirs of the deceased employees in occupation of the tenements. Though the terms of the G.O are clear and unambiguous, the then management after accepting the amount fixed in the G.O from some of the allottees chose



W.P(MD)No.771 of 2014

to refund the same and declined to execute the sale deed. Three of the allottees filed writ petitions before the High Court in W.P.(MD)Nos. 41586 to 41588 of 2002 etc., The writ petitions were allowed by a learned Judge of this Court vide order dated 09.01.2013. Paragraph Nos. 10,11 & 12 of the order read as follows:-

10. It is not in dispute that Mr.M.Abdul Sukheer, the petitioner in W.P.No.41586 of 2002, while serving as Maistry in the Industrial Estate, Tamil Nadu Small Industries Development Corporation Limited from the year 1967, was allotted a residential tenement bearing No.D-16, Labour Colony, Industrial Estate, Guindy, Chennai by order dated 30.3.76 on rental basis. As per the terms and conditions of allotment, he has to pay the rent regularly and the petitioner was also paying the rent and other dues. Subsequently, the Government took a decision to convey and transfer the ownership of the tenement to the respective allottees on payment of a sum of Rs.9,600/- as the sale price for each tenement and G.O.Ms.No.128, Housing and Urban Development Department dated 24.3.97 was also issued in this regard. On the basis of the said Government Order, the respondents passed an order in Na.Ka.No.734/A4/97 dated 14.11.97 and directed the petitioner also to pay a sum of Rs.9,600/- as the sale price for conveying the tenement, which was already in his possession and enjoyment. The petitioner also admittedly paid the sale price of Rs.9,600/- on 17.11.97 and the same was also acknowledged by the second respondent. But subsequently no steps were taken to execute the sale deed in his favour in spite of several representations. One of the memos dated 10.3.98 shows that the SIDCO department has executed the sale deed in respect of 45 allottees of labour tenements after observing the usual formalities if they were eligible as per G.O.Ms.No.128, Housing and Urban Development Department dated 24.3.97 and 24.9.97 issued by the Government of Tamil Nadu. One another communication dated 16.3.98 issued by the Chairman and Managing Director of TANSIDCO Limited also shows that the second respondent has implemented the Government Order by issuing the sale deeds to all the eligible occupants of the labour tenements on collection of the cost of money as determined by the Government together with rental arrears, if any, in accordance with the Government Order mentioned above in respect of 21 employees. Yet another communication issued by the Managing Director of Tamil Nadu Housing Board dated 9.12.99 also shows that out of 2930 houses maintained by the Tamil Nadu Housing Board, sale deeds have been issued for 1121 houses. Paragraph-3 of the communication bearing D.O.Letter No.GR.II.3/32884A/97 dated 9.12.99 clearly shows that as per condition no.10 stipulated in G.O.Ms.No.128 dated 24.3.97, the retired and legal heirs of the deceased labourers were also eligible to receive the sale deeds. Therefore, the objection raised by the respondents taking a stand that if an allottee of a labour tenement retires from service or resigned his job, he should handover the tenement to the department cannot be accepted.



WEB COPY



W.P(MD)No.771 of 2014

11. Further, when G.O.Ms.No.53, Industries (Spl.) Department dated 22.1.73 also clarifies that the designation of "Maistry" shall be changed as "Work Inspector" and the Work Inspector be called as "Technical Assistant" in the construction branch of the Industries Directorate, it cannot be construed that the petitioners shall not come under the economically weaker section of the society, as the order of allotment clearly shows that they were allotted the tenements only when they were serving as Maistry, Wireman and Welder respectively in the TANSIDCO units. Hence, they cannot be construed as Gazetted Officers so as to disqualify them from the allotment of the labour tenements in question.

12. Be that as it may, when the order dated 9.12.99 issued by the Managing Director of the Tamil Nadu Housing Board clearly shows that even the retired and legal heirs of the deceased labourers are also eligible to receive the sale deeds, this Court is not able to find any reasonable stand taken in the impugned proceedings to refund the cost of the labour tenement of Rs.9,600/- collected from M.Abdul Sukheer in the year 1997 towards the sale price for conveying the tenement in his favour. For all the above reasons, this Court finds that the impugned order is liable to be quashed. Accordingly, the impugned order is set aside and the respondents are directed to execute the sale deed in favour of the petitioner in respect of the labour tenement in question expeditiously. W.P.No.41586 of 2002 stands allowed. For the very same reasons, W.P.Nos.41587 and 41588 of 2002 are also allowed with a direction to the respondents to execute and register the sale deeds in respect of the residential tenements in question in favour of the petitioners expeditiously. In the result, all the writ petitions are allowed. However, there shall be no order as to costs.

Questioning the order passed by the learned Judge, SIDCO filed W.A.Nos.1693 to 1695 of 2013. The Hon'ble Division Bench vide order dated 17.09.2013 dismissed the writ appeals in the following terms:-

“7.This Court, on consideration of the submission of the learned counsel for the appellants and on perusal of the materials placed before it, is of the view that the point urged by the learned counsel for the appellants/respondents in the writ petition lacks merit. Even as per the own admission of the appellants, the respondents joined the services of the TANSIDCO as Maistry, Wireman and Welder respectively and it is also not in serious dispute that they are not workmen and therefore, the benevolent provisions of the Industrial Disputes Act are applicable to them. The fact remains that the



W.P(MD)No.771 of 2014

tenements occupied by the respondents were allotted in their favour and they had also paid the respective sale consideration and sale deeds alone shall be executed in their favour. The appellants, after getting clarification from the Tamil Nadu Housing Board, had passed the impugned order cancelling the sale of tenements in their favour. In the considered opinion of the Court, since the respondents / writ petitioners come within the definition of workmen the Industrial Disputes Act is applicable to them.

8. In the light of the above factual and legal position, this Court is of the view that there is no error or illegality in the impugned order passed by the learned single Judge in allowing the writ petitions and that there is no merit in the writ appeals. Accordingly, the writ appeals are dismissed at the admission stage itself. The appellants are directed to execute sale deeds in favour of the respondents / writ petitioners within a period of eight weeks from the date of receipt of a copy of this order.”

4. When the matter was taken up by the Hon'ble Apex Court in Special Leave to Appeal (Civil)Nos.2401 to 2403 of 2014. Vide order dated 17.02.2014, SLPs were dismissed. The Hon'ble Apex Court had left open the question of law to be agitated in an appropriate case. The respondents have filed the counter affidavit and the learned standing counsel took me through its contents. His foremost contention is that the petitioner cannot claim parity of treatment with the petitioners in the aforesaid three writ petitions. He pointed out that the petitioner did not



W.P(MD)No.771 of 2014

remit the sale consideration in time. In any event, the writ petition is barred by laches. The petitioner chose to come before this Court only after being served with an order of eviction. He repeatedly contended that the scheme was conceived when the prevailing situation was different and that the petitioner cannot be allowed to take away a valuable property after paying a paltry sum of Rs.9,600/-. He strongly pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions. It is seen that Arockiasamy had served SIDCO as Plumber for more than 1 ½ decades. In the affidavit filed in support of the writ petition, the petitioner has specifically stated that request was repeatedly made. It has been held by the Hon'ble Division Bench that the serving employees as well as the retired employees as well as their legal heirs are entitled to invoke G.O.Ms.No.128, Housing and Urban Development, dated 24.03.1997. Of-course, in the aforesaid writ petitions, the petitioners had remitted the amount, whereas the petitioner herein had not been done so. The petitioner's case is that even though he came forward to remit, the management did not accept the same. I am satisfied that the petitioners



W.P(MD)No.771 of 2014

are similarly placed. Once a beneficial policy was floated by the authorities, the authorities must endeavor to ensure that end-users are benefitted. They should not do a U-turn in the middle. The learned counsel appearing for the petitioner drew my attention to the response obtained from the authorities. It is seen from the reply dated 29.12.2008 that for 396 allottees, the sale deeds have already been executed and registered. There is absolutely no reason to discriminate against the petitioner.

6. In this view of the matter, the impugned eviction notice is set aside. The respondents are directed to execute the sale deed conveying the petition mentioned property in favour of the petitioners. Of-course, it is open to the respondents to redetermine the sale amount payable by the petitioner. This is because, as per G.O, a sum of Rs.9,600/- should have been paid in the year 1997 itself. While redetermining, it would not be open to the respondents to adopt an arbitrary approach in the case of the petitioner alone. Whatever treatment that was extended to similarly placed persons shall be extended to the petitioner also. A formal notice shall be issued by the respondents in this regard within a



W.P(MD)No.771 of 2014

period of five weeks from the date of receipt of a copy of this order. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

7. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

04.07.2023

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



WEB COPY



W.P(MD)No.771 of 2014

G.R.SWAMINATHAN, J.

rmi

W.P(MD)No.771 of 2014

04.07.2023