



WP(MD)No.16824 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 05.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

**WP (MD) No.16824 of 2015
and
WMP (MD) Nos.1 and 2 of 2015**

H.Purusothaman

... Petitioner

Vs

1.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai.

2.The Assistant Secretary (Allotment),
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai.

3.The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Tirunelveli Housing Unit,
Tirunelveli - 11.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus calling for the entire records relating to the impugned order in letter No.Othu.2.4/41562/2012 dated 07.08.2015 passed by the 2nd respondent and quash the same as illegal and consequently direct eh respondent to execute a sale deed in favour of the



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petitioner in respect of Plot No.C4 in Tenkasi SMT Housing Scheme - 2005 by receiving the sale consideration price, fixed during the year 2006 - 2007 for the above Tenkasi SMT Scheme - 2005 and to hand over the possession of the same to the petitioner within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.S.Velmurugan

Standing Counsel

ORDER

The petitioner was allotted with a plot by the Housing Board vide G.O[2D] No.80 Housing and Urban Development (Vva.5(1) Department dated 05.04.2005 in the government discretionary quota on the ground that the petitioner is a social welfare worker. The petitioner with a grievance that though plot has been allotted to him, it has not been executed in his favour and the property was not handed over to him, he had sent several representations. But no action was taken. Therefore, this writ petitioner earlier along with similarly placed persons filed writ petitions in WP(MD)No.8495 to 8497 of 2009 seeking a



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writ of mandamus for a direction to the respondents to hand over the possession of the plot allotted to this petitioner and to other allottees. Pending the writ petition, the allotment made in favour of other writ petitioners were cancelled. However, the respondents have not cancelled the allotment of the petitioner. The others, against whom the allotment was cancelled, have again filed writ petitions in WP(MD)Nos.3854 to 3856 of 2008 and this Court by order dated 26.10.2010 allowed those writ petitions and set aside the order of cancellation on the ground that no notice was granted to the allottees before the cancellation. Subsequently the 3rd respondent issued notice to the writ petitioners on 18.08.2011 calling them for personal hearing. Thereafter the respondents allotted a plot to other similarly placed persons on 28.06.2012, but no order was passed in respect of the petitioner's plot. Thereafter the petitioner filed another writ petition in WP(MD)No.13003 of 2012 before this Court for a mandamus directing the respondents to complete the formalities and to issue



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regular allotment order in respect of the plot C-4 Tenkasi SMI Housing Board and to hand over the same.

This Court disposed of the writ petition on 01.04.2015 by directing the 1st and 3rd respondents to complete the formalities and issue the allotment order and hand over the possession within a period of eight weeks. In response to the same, the 2nd respondent has proceeded with the letter dated 07.08.2015 and passed this impugned order insisting this petitioner to give consent letter to get allotment of the plot at the rate prevailing in the year 2015-2016. Aggrieved over the same, the writ petition is filed in the year 2015. Since the respondents have not filed their response to this writ petition. Only after the orders of this Court dated 03.11.2023 the respondents have filed their counter.

2.The learned Counsel for the petitioner submits that the allotment was made on 05.04.2005 and the Government order vide G.O[2D] No.80 Housing and Urban Development (Vva.5(1) Department dated 05.04.2005 was



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also issued in this regard. The respondents have taken a stand that the plot is a commercial plot and it was allotted under the discretionary quota. As per the Allotment Rules, the allotment of commercial site is made only after the cost of the scheme is finalised. According to the 3rd respondent at the time of allotment, the issue was pending before the Court and therefore, the final cost could not be arrived at that point of time.

3.Though this ground is repeated by the respondents in their counter affidavit, the respondents have not made it clear when this cost has been finalised for the commercial plots. Since the respondents have not defended the case properly by filing counter affidavit in a proper manner, this Court has no other option to dispose of the writ petition with a direction to the 3rd respondent to hand over the plot to the petitioner by receiving the cost as received by the Housing Board from others as fixed for the commercial plots No.C2 in the same area.



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4.The petitioner shall pay the amount within period of four weeks from the date of receipt of a copy of this order at par with the amount which has been fixed for other commercial plots in the same area.

5.In the result, this writ petition is allowed.
No costs. Consequently connected miscellaneous petitions are closed.

05.12.2023

Internet : Yes / No

DSK

To

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B. PUGALENDHI , J .

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