



W.P(MD)No.4551 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4551 of 2015

and

M.P.(MD)Nos.1 & 2 of 2015

Singathevan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Housing Board (TNHB)
493, Anna Salai,
Nandhanam,
Chennai-35.

2.The Executive Engineer and Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit,
Ellis Nagar,
Madurai-10.

... 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 conditional portion of impugned order passed by the 2nd respondent in his proceeding No. vide Letter NO. M.H.7/M.D.U 324/13 dated 21.01.2015 in computing the arrear principal amount and the penal interest (i.e. Column No.1 Arrear Amount Rs. 25,23,330/- and column NO.2 Penal Interest (According to present market value) Rs.13,58,000/- total Rs.38,81,330/- to be



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paid within 60 days from the receipts of the letter) and quash the same as illegal and consequently, direct the respondents to pass afresh orders in accordance with law.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.A.Sivakumar
Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent housing board.

2. The housing board issued notification inviting participants in tender-cum-public auction for purchasing the petition mentioned commercial plot. The upset price was fixed at Rs.25,47,000/-. The petitioner's offer of Rs.29,40,000/- turned out to be highest. The auction took place on 06.03.2013. The petitioner remitted Rs.4,41,000/- on 06.03.2013. On 28.03.2013, a further sum of Rs.3,83,000/- was remitted. The petitioner had thus paid Rs.8,24,000/-. The petitioner had by then remitted 50% of the bid amount. He had to pay 35% of the bid amount on or before 09.05.2013 and 15% on or before 30.05.2013. The petitioner could not make the balance payment. On 18.04.2013, the second respondent reminded the petitioner about his contractual obligation and put him



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on notice that failure on his part to pay the balance amount would lead to cancellation of his bid together with forfeiture of whatever amount he had paid by then. Notwithstanding the said reminder, the petitioner could still not comply with the contractual condition. Therefore, on 31.07.2013, the second respondent cancelled the allotment made in favour of the petitioner. The petitioner thereafter submitted representation dated 20.12.2013 calling upon the respondents to revisit their decision. The housing board took more than a year to consider the petitioner's request and thereafter, issued the impugned communication dated 21.01.2015 calling upon the petitioner to pay a further sum of Rs.38,87,330/- so that pucca sale deed can be executed in his favour. Challenging the said decision, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner submitted that the housing board having taken almost more than 13 months to consider his representation for review could not have imposed penalty or even penalty interest on him. The learned counsel for the petitioner relied on the order dated 26.04.2011 made in W.P.(MD)No.8494 of 2006. He called upon this Court to set aside the impugned order and grant relief as prayed for.



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reconsidered by the board and the petitioner was called upon to pay a sum of Rs.38,87,330/-. It is this communication dated 21.01.2005 that is under challenge in this writ petition. The housing board is not a charitable organization. The plot in question is a commercial plot. Therefore, it is for the petitioner to accept the board's decision or say “no”. It is of-course open to the petitioner to demand that the bid amount forfeited by the board should be returned to him with interest. When I made this clear, the learned counsel for the petitioner took a pass over and after getting instructions from his client submitted that the petitioner is ready to pay the amount demanded within a period of eight weeks from the date of receipt of a copy of this order. In normal circumstances, I would have directed the petitioner to pay the interest at the rate of 6% per annum. However, a learned Judge of this Court vide order dated 26.04.2011 in W.P.(MD)No.8494 of 2006 chose to grant relief in more or less similar circumstances in the following terms:-

“10. Thereafter, the next question that arises for consideration is as to whether the interest calculated by the Housing Board is fair. In the impugned notice there is no mention about the rate of interest.

13. At this juncture, it is useful to refer to Section 34 of the Code of Civil Procedure, which provides for payment of 6% interest at the maximum for the amount that is due under a decree. I take the amount Rs. 4,34,400/- as the amount due under a decree and direct the petitioner-Temple to pay the amount with simple interest at the rate of 6% from



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01.04.2004 to 30.04.2011. The interest comes to Rs.1,84,620/- (Rupees one lakh eighty four thousand six hundred and twenty only).

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14. At this juncture, the learned counsel for the petitioner states that the petitioner is a Temple and it is not a commercial enterprise. The petitioner could be given some adequate time to make payment.”

6. I am inclined to adopt the very same approach in this case also. Since the impugned communication includes penal interest as well as penalty, the petitioner need not be called upon to pay any further amount. The order impugned in the writ petition is sustained. The petitioner is permitted to make payment demanded in the impugned notice within a period of eight weeks from the date of receipt of a copy of this order. Upon the petitioner making the said payment, the respondent board shall execute pucca sale deed in favour of the petitioner immediately thereafter.

7. The Writ Petition is disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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