



W.P(MD)No.6360 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6360 of 2015
and
M.P.(MD)Nos.1 and 2 of 2015

Kottaimalai

... Petitioner

Vs.

1.The Managing Director,
Tamilnadu Housing Board,
Nandanam, Chennai.

2.The Manager (Sales & Service),
Executive Engineer & Administrative Office,
Madurai Housing Board,
Ellis Nagar, Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Proceedings issued by the 2nd respondent in his Proceeding sin Lr.No.M.H7/9885/95 dated



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08.03.2013 insofar as fixation of cost of parcel of land at Rs.600 per square feet in the Srivilliputhur Housing Scheme and quash the same as illegal and consequentially to direct the 2nd respondent to fix the cost of parcel of land at Rs.400 per square feet on par with other allottees in the Srivilliputhur Housing Scheme within the time that may be stipulated by this Court.

For Petitioner : Mr.Nawaz Khan,
For M/s.Ajmal Associates.

For Respondents : Mr.R.Sivakumar.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is an ex-transport corporation employee. When the Tamil Nadu Housing Board promoted a housing laid out scheme, the petitioner applied in response thereto. He was allotted the plot bearing MIG-60 for a sum of Rs.5,69,000/-. The sale deed was executed in his favour on 18.10.2005. The adjacent vacant land was



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remaining unoccupied and unsold. The petitioner made request on 30.05.2011 to the first respondent for allotting the said site also. On 19.02.2013, proceedings were issued allotting the said site for a sum of Rs.5,69,000/- on out right purchase basis. The cost was worked out at the rate of Rs.600/- per square feet. The petitioner applied to the board for reduction of the cost to Rs.300/- per square feet. The petitioner's request was rejected on 28.02.2013. He filed an appeal before the first respondent. The board rejected the appeal on 06.11.2013. Thereafter, the petitioner paid Rs.5,69,000/- in two installments on 23.12.2013 and on 27.12.2013. The Tamil Nadu Housing Board thereafter informed the petitioner that he must pay a further sum of Rs.50,659/- towards interest. Thereupon, the present writ petition came to be filed.

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He submitted that when another corner plot bearing similar topographical features was sold in favour of one Arockiam at the rate of Rs.400/- square feet, the respondents are not justified in demanding Rs.600/- per square feet from the petitioner. The learned counsel would further



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contend that the Housing Board being a State instrumentality will have to be fair even in its commercial dealings. He called upon this Court to set aside the impugned order and allow the writ petition as prayed for.

4.The respondents have filed counter affidavit and the learned standing counsel took me through its contents and submitted that the petitioner's request is not feasible of compliance. According to him, the two plots cannot be compared. He would also argue that unless the petitioner pays interest, sale deed cannot be executed in favour of the writ petitioner. He also produced the calculation sheet to justify the demand made in the impugned order. He pressed for dismissal of the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. There are two issues involved in this writ petition. One is regarding cost fixation (whether it is should Rs.600/- per square feet or Rs.400/- per square feet). The second issue is whether the petitioner should be made to pay a further sum of Rs.50,659/- towards interest.



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6.As regards the first issue, I have to necessarily hold in favour of the Housing Board. It is not as if the petitioner sought to purchase the plot at a public auction. The petitioner was only negotiating with the board. In such cases, the principle to be applied is take it or leave it. Either the petitioner should take the plot at the rate of Rs.5,69,000/- as offered or he must forget the plot. The petitioner cannot insist that the Board should sell the plot at the rate he wants to buy. In such matters, the question of comparison also will not arise. The Writ Court in any event cannot undertake the task of comparing the topographical features of the plot which was sold to Arockiam with the plot which is adjacent to MIG-60. I, therefore, sustain the stand of the respondents as regards of valuation of the plot at Rs.5,69,000/-.

7.As regards the second issue, I have to necessarily sustain the stand of the learned counsel for the petitioner. It is true that the allotment letter was issued in favour of the petitioner on 19.02.2013. But then, the petitioner sought reduction of the plot cost. The request was rejected on 28.02.2013. The petitioner filed an appeal immediately. The appeal was



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rejected only on 06.11.2013 after a gap of almost eight months.

Immediately in December 2013, the petitioner paid the entire cost. The respondent cannot put the delay in disposing the appeal against the petitioner. It is well settled that a person or authority cannot take advantage of his or their own wrong. That apart, it is not as if because of the delay committed by the petitioner in remitting the plot cost, the Housing Board was put to loss. The plot which the petitioner wants to buy has been lying vacant for years together. It was only the petitioner who evinced interest to buy the plot. Nothing stopped the Housing Board from selling the plot at a public auction much earlier. Therefore, by no stretch of imagination, the Board is justified in demanding payment of interest from the petitioner. As rightly pointed out by the learned counsel for the petitioner, even after receiving a sum of Rs.5,69,000/- from the petitioner, the Board is yet to execute the sale deed. If the sale deed could have been executed in favour of the writ petitioner in February 2013, then there will be justification in making a demand for payment of interest. Without executing the sale deed, the Housing Board cannot insist on payment of interest. The demand for payment of interest is set aside.



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8.Since the petitioner had paid the entire plot cost way back in December 2013, the respondents are directed to execute sale deed conveying the petition mentioned plot to the petitioner immediately and without any delay. The writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
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G.R.SWAMINATHAN, J.

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