



W.P.No.3575 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.3575 of 2021
and W.M.P.No.4063 of 2021

M.S.Kamarunissa Begum

...Petitioner

-Vs -

1. The State of Tamil Nadu,
Rep. by the Secretary to Government,
Housing and Urban Development,
HB 5-2 Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. Tamil Nadu Housing Board,
Rep. by its Managing Director,
Nandanam Division,
Anna Salai, Nandanam,
Chennai – 600 035.
3. The Executive Engineer/
Administrative officer,
K.K.Nagar Division,
TNHB, Ashok Nagar Shopping Complex,
First Floor, Ashok Nagar,
Chennai – 600 083.



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4. The Manager,
Marketing & Services,
K.K. Nagar Division,
TNHB, Ashok Nagar Shopping Complex,
Chennai – 600 083.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the fourth respondent in letter dated 13.01.2021 in Letter No.K.K.Na./B1/1880/2016, and quash the same and direct the third respondent to register the sale deed in favour of the petitioner with respect to LIG flat bearing No.A5/8, 384 LIG Ramapuram Self Financing Scheme.

For Petitioner : Ms.M.Sneha

For Respondents

For R1 : Mr.P.Sanjay Gandhi
Government Advocate

For R2 to R4 : Mr.D.Veerasekaran
Standing Counsel.

ORDER

This writ petition has been filed challenging the order dated 13.01.2021 passed by the fourth respondent, thereby made demand to the petitioner to pay a sum of Rs. 4,51,185/-, within a period of 30 days for execution of sale deed.



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2. The respondents board had constructed dwelling houses to various individuals on no profit and no loss basis consisting lower/middle/higher income groups. The third respondent notified the details about the construction of lower income group flats at Ramapuram and invited applications. As per the advertisement, the constructed tenement would be around 570 sq.ft., and the total cost of the flat was Rs.20,84,000/-. The petitioner submitted application along with deposit of Rs.1,05,000/- viz., 5% of the total cost. The petitioner was selected and allotted flat No.A-5/8 by way of allotment letter dated 02.05.2016. Thereafter, the third respondent had entered into agreement for sale and as per the agreement for sale, the project has to be completed within a period of 18 months and the same could be extended upto six months in the event of unforeseen conditions and act of God.

3. Thereafter, the petitioner availed loan from the HDFC bank. Though the respondents had fixed time for completion of construction 18 plus 6 months, it was completed only in the 30th month viz., October, 2019. Therefore, the HDFC bank disbursed the loan amount from time to time on seeing the level of construction. Therefore, the last three installments were not disbursed due to the delay in construction by the



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respondents. The possession of the said flat was handed over to the petitioner on 01.11.2019. When the petitioner requested for registration of sale deed, after payment of entire sale consideration, the fourth respondent issued letter dated 13.01.2021, thereby directed the petitioner to pay difference of Rs.3,30,000/- and also a balance amount totaling a sum of Rs.4,51,185/- for registration of sale deed. Hence, the present writ petition.

4. The learned counsel appearing for the petitioner submitted that the respondents had advertised inviting applications for purchase of lower income flats to an extent of 570 sq.ft., for the sale consideration of Rs.20,84,000/- only. However, now the respondents made demand for total plinth area of 684 sq.ft. That apart, they charged interest for the belated payment. The delay caused only by the respondents for completing the construction, since the banker of the petitioner disbursed the loan amount from time to time on the basis of the completion of construction.

5. The third respondent filed counter and the learned Standing Counsel appearing for the respondents board submitted that after



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allotment order, the petitioner paid the dues as follows :-

Sl.No	Scheduled due	Scheduled amount	Paid date actual	Receipt No.	Paid amount	Maintenance charge/corpus amount	Remarks
1	05.03.2016		05.03.2016	31052	1,05,000		Initial deposit
2	12.04.2016		20.04.2016	31878	1,05,000		
3	03.06.2016 (3 rd due)	Rs.3,12,600	25.06.2016	32768	3,12,600		
4	31.07.2016 (4 th due)	Rs.3,12,600	17.08.2016	34309	3,12,600		
5	31.10.2016 (5 th due)	Rs.3,12,600	12.12.2016	35163	3,12,600		
6	31.01.2017 (6 th due)	Rs.3,12,600	16.02.2017	41874	3,12,600		
7	30.04.2017 (7 th due)	Rs.3,12,600	04.01.2019	48560	6,23,600		
	31.07.2014 (8 th due)	Rs.2,08,400					
	Handing over (9 th due)	Rs.1,02,600					
8			04.10.2019	99620		1000	Maintenance charge
9			04.10.2019	99621		10000	Corpus amount
			Total		20,84,000	11000	

After receipt of the entire payment of Rs.20,84,000/- towards tentative cost of the flat and Rs.11,000/- towards corpus fund and maintenance charges, the physical possession of the flat was handed over to the petitioner on 01.11.2019. On examination, the total plinth area of the said



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flat is 684 sq.ft., and therefore, the petitioner has to pay the cost for the increased plinth area. Further, the petitioner has made delayed payment of installments towards the tentative cost of the flat. Therefore, the petitioner is liable to pay cumulative interest at the rate of 10.5% for the belated payment.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. The petitioner was allotted a flat to the extent of 570 sq.ft., as per the advertisement. However, after construction the total plinth area of the said flat is 684 sq.ft. Therefore, the construction cost of the flat has been increased. In fact, the square feet rate as per the advertisement is Rs.3,654/- tentatively. However, after completion of construction, the cost of construction has been reduced to Rs.3,534/- per square feet. Accordingly, for the plinth area of 684 sq.ft., the cost has been fixed at Rs.24,14,000/-. Therefore, the petitioner is liable to pay the difference cost of Rs.3,30,000/-.

8. As rightly pointed out by the learned counsel appearing for



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the petitioner, there was a delay in completion of construction by the respondents by six months. Therefore the petitioner could not able to make the payment within the due date. As per the tabular column, there was very meager delay of less than 30 days for each dues. As per the agreement, the respondents ought to have completed the construction within the period of 24 months from the date of allotment viz., 02.05.2016. However, they completed the construction belatedly and therefore, the petitioner is not liable to pay any interest for the same. Further, the petitioner is liable to pay the difference in cost, since the plinth area has been now increased from 570 sq.ft., to 684 sq.ft., and the petitioner is also liable to pay the interest for the difference in cost of Rs.3,30,000/- from the date of issuance of demand viz., 13.01.2021.

9. Accordingly, the impugned order dated 13.01.2021, passed by the fourth respondent in Letter No.K.K.Na./B1/1880/2016, is hereby quashed. The fourth respondent is directed to calculate the interest for the difference in cost and issue fresh demand, within a period of two weeks from the date of receipt of a copy of this Order. On receipt of the same, the petitioner is directed to pay the balance amount within the period of three weeks thereafter. On receipt of the entire amount, the third



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respondent is directed to execute the sale deed in favour of the petitioner forthwith.

10. With the above directions, the Writ Petition stands partly allowed. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

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Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

rts



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To
WEB COPY

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