



W.P.Nos.5126, 5129 & 5130 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM:

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

W.P.Nos.5126, 5129 & 5130 of 2021
and W.M.P.Nos.5707, 5708 & 5709 of 2021

K.Subbarayan

...Petitioner in W.P.
No.5126 of 2024

M.Athiappan

...Petitioner in W.P.
No.5129 of 2024

A.Rama Bai

...Petitioner in W.P.
No.5130 of 2024

-Vs-

1. The Secretary to Government,
Municipal Administration &
Water Supply MAV(2) Department,
For St. George, Chennai – 9.

2. The Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road,
Chennai – 28

3. The Commissioner,
Rasipuram Municipality,
Rasipuram.

... Respondents in
all W.Ps.



W.P.Nos.5126, 5129 & 5130 of 2021

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in connection with the impugned order passed by him in letter Nos.863/MA-V(2)/2013/33, 863/MA-V(2)/2013/34 & 863/MA-V(2)/2013/35 respectively, dated 30.07.2019 and further confirmed by the same respondent in letter No.19646/MAV(2)/2019/2 dated 04.10.2019 and quash the same and direct the respondents to execute outright sale of Door Nos.10, 14 & 6 respectively, Annanagar, Namakkal Road, Rasipuram 637 408, in favour of the petitioner according to the market rate fixed as per the principles stipulated under the LIG Housing Scheme of Government of India based on the Resolution passed by the third respondent in Resolution No.371 dated 17.02.1995 within a reasonable time.

In all W.Ps.

For Petitioner : Mr.K.Venkataramani, Senior Counsel
For Mr.M.Muthappan
For Respondents
For R1 & R2 : Dr.T.Seenivasan
Special Government Pleader
For R3 : Mr.M.Elumalai

COMMON ORDER

These writ petitions have been filed challenging the orders dated 30.07.2019 and 04.10.2019, passed by the first respondent thereby rejected the request made by the petitioners seeking for outright purchase in respect of their quarters.



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2. The petitioners were ex-employees of third respondent municipality. They were working in various posts and superannuated from their respective service. While they were in service, the third respondent constructed 20 houses and allotted to its employees. As per the letter dated 23.07.1957, issued by the Government of India, Ministry of Housing, in order to reach the ultimate aim of housing policy of the government of India to relieve the housing shortage in the country by increasing number of houses, all public institutions run on no-profit no-loss basis should build houses for their employees by taking advantage of the scheme, subject to the condition that they sell either by outright or on higher purchases basis or let out the house built by them under the scheme for their own employees on no-profit and no-loss basis.

3. Following the said letter, the government of Madras issued an order in G.O.Ms.No.1893 Housing dated 26.03.1967, by the Department of Industries, Labour and Co-operation, sanctioned loan of Rs.1,16,640/- in favour of the third respondent for construction of 20 houses under the said scheme. Accordingly, after construction, the petitioners were allotted to their respective quarters for the monthly rent basis. Thereafter, there was a ban imposed by the government of Tamil



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Nadu in G.O.Ms.No.730 RW Department dated 14.04.1976, thereby imposed ban that no immovable property belonging to the Municipal Council coming under the various categories be disposed of by them. However, during the ban, insofar as the Erode Municipality is concerned, the government relaxed the ban and permitted to sell the respective allotment of quarters to the allottees at the market price.

4. Therefore, the petitioners submitted detailed representation seeking outright purchase of their respective quarters by relaxing the band. However, it was not considered as such they constrained to file a writ petition before this Court and this Court by an order dated 12.04.2019 in W.P.Nos.1018 to 1020 of 2013, directed the first respondent to consider the request made by the petitioner within a period of two months.

5. As directed by this Court, the petitioner submitted fresh representation and the same was rejected on the ground that the government have banned the sale, gift of land and buildings to the Municipal employees or other public servants etc., in the G.O.Ms.No.730 Rural Development and Local Administration dated 14.04.1976. Further,



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the government instructed that no municipal council should pass resolutions in favour of individual for outright sale of quarters belonging to corporations, municipalities.

6. The learned Senior Counsel appearing for the petitioner submitted that third respondent by its resolution dated 17.02.1995 had accorded approval for assignment of the respective quarters after obtaining orders from the government. The said proposal for sale agreement was forwarded to the first respondent by the third respondent by its communication dated 17.02.1995. In fact, the said proposal was also recommended by the Regional Director of Municipal Administration, Salem by its communication dated 17.02.1995. Even then, the said resolution was not considered by the first respondent. In fact, by way of the same resolution, the Erode Municipality had requested the government to relax the ban and the government also permitted to sell 66 houses by the government order in G.O.Ms.No.653 Rural Development and Local Administration Department dated 16.04.1977.

7. The respondents filed counter and the learned Special Government Pleader submitted that only because of the ban issued by the



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first respondent in G.O.Ms.No.730 Rural Development and Local Administration dated 14.04.1976, the request made by the petitioner was not considered and rejected. After the ban, the government also issued letter in Letter (Ms)No.183, Municipal Administration Department dated 21.03.1997 and instructed that no municipal council should pass resolution in favour of sale of quarters on outright basis in favour of any individual.

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

9. On perusal of records revealed that the petitioners were allotted their respective quarters during the year 1980. After their retirement from service, they were allowed to stay in the same quarters. In fact, the petitioner in W.P.No.5276 of 2021 is aged about 74 years; the petitioner in W.P.No.5129 of 2021 is aged about 72 years and the petitioner in W.P.No.5130 of 2021 is now aged about 83 years. After more than 20 years from their date of retirement, they were allowed to stay in their respective quarters and also receiving rents from them. The purpose of the order of ban issued by the first respondent is that in order



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to provide quarters to the serving employees, restrained the municipalities and corporation from selling the property belongs to them. Now the purpose of ban itself defeated by allowing the petitioners to stay in their respective quarters by collecting rents.

10. That apart, even after the ban in the year 1976, as per the resolution passed by the Erode Municipality, the government relaxed the ban by the government order in G.O.Ms.No.653 Rural Development and Local Administration Department dated 16.04.1977, thereby permitted the Erode Municipality Council to sell 66 houses to its respective occupants. In the case on hand, the third respondent even after the ban, passed resolution No.371 dated 17.02.1995 thereby accorded approval for assignment of house to its occupants by outright sale. Further in the earlier writ petitions filed by the petitioners in W.P.Nos.1018 to 1020 of 2013, this Court by an order dated 12.04.2019, categorically held that the petitioner are entitled for the relaxation as granted to the Erode Municipality Corporation. Even then, without considering the same, the first respondent rejected the request made by the petitioners. Therefore, the reasons stated in the rejection order passed by the first respondent cannot be sustained and liable to be quashed. Further, all the petitioners



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are ready and willing to pay the present market value for purchase of their respective quarters.

11. In view of the above discussions, the impugned orders dated 30.07.2019 passed by the first respondent in letter Nos.863/MA-V(2)/2013/33, 863/MA-V(2)/2013/34 & 863/MA-V(2)/2013/35 respectively and further confirmed by the same respondent in letter No.19646/MAV(2)/2019/2 dated 04.10.2019 are hereby quashed. The third respondent is directed to execute the sale deed in respect of respective quarters in favour of the petitioners, by fixing the present market value as sale consideration, within a period of eight weeks from the date of receipt of a copy of this Order.



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WEB COPY 12. With the above directions, all the Writ Petitions stand allowed. Consequently, connected miscellaneous petition are closed.

There shall be no orders as to costs.

02.09.2024

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

To

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