



W.A.No.1773 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.No.1773 of 2021

Chennai Metropolitan Development Authority,
rep. by its Member Secretary & Chief Executive Officer (i/c)
No1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

.. Appellant

Vs

S.Kumarasamy

.. Respondent

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 28.2.2018 passed by the learned Single Judge in W.P.No.24204 of 2016.

For the Appellant : Mr.R.Sivakumar

For the Respondent : Mr.S.Senthilnathan



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W.A.No.1773 of 2021

JUDGMENT
(Delivered by the Hon'ble Chief Justice)

Heard Mr.R.Sivakumar, learned counsel for the appellant;
and, Mr.S.Senthilnathan, learned counsel for the respondent.

2. The appellant assails the judgment delivered by the learned Single Judge allowing the writ petition filed by the present respondent.

3. Under the impugned judgment, the learned Single Judge has directed the present appellant to hand over possession of Shop No.A-364 in "A" Block Type-1 category to the respondent on payment of original cost forthwith.

4. Learned counsel for the appellant submits that the appellant has got right to levy penal interest as per the terms and conditions of the allotment. The terms and conditions of the allotment are part of the contract between the parties and the



W.A.No.1773 of 2021

respondent is bound by the terms of the contract. The Court could not modify the terms of the contract. The respondent had opted for paying the amount in lumpsum. Admittedly, the respondent did not pay the entire amount in lumpsum. In view of that, the learned Single Judge ought not to have faulted the action of the appellant in charging the penal interest.

5. It is not disputed that possession was not handed over to the respondent till 2018. It is only after the order was passed by this Court on 28.2.2018 in W.P.No.24204 of 2016, the appellant had handed over possession to the respondent.

6. In view of the fact that possession was not handed to the respondent and that the reason given for not handing over possession is delay in the construction, the original petitioner/respondent cannot be faulted for not depositing the amount as demanded earlier.



W.A.No.1773 of 2021

7. The learned Single Judge has considered the said aspect in its correct perspective. As such, we do not find any infirmity in the judgment of the learned Single Judge.

8. The writ appeal, as such, is disposed of. There shall be no order as to costs.

(S.V.G., CJ.)

(J.S.N.P., J.)

18.04.2024

Index : Yes/No
Neutral Citation : Yes/No
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W.A.No.1773 of 2021

THE HON'BLE CHIEF JUSTICE
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J.SATHYA NARAYANA PRASAD,J.

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W.A.No.1773 of 2021

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