



WEB COPY



W.P.No.30146 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.30146 of 2016
and
W.M.P.No.26112 of 2016

G.Raji

... Petitioner

Vs.

1. The State Government of Tamilnadu,
rep. by its Secretary,
Tamilnadu Housing and
Urban Development Department,
St. George Town, Chennai.

2. The Managing Director,
Tamilnadu Housing Board Department,
Nandanam, Chennai-35.

3. The Superintendent/Manager,
(Sales and Service)
Tamilnadu Housing Board Department,
Anna Nagar Zone, Thirumangalam,
Chennai-600 101.

4. Mr.S.Jaya Sankar

(R4 suo motu impleaded vide order dated 09.03.2023 made in
WP.30146/2016 by SMSJ) ... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India



W.P.No.30146 of 2016

praying for issuance of a writ of Certiorarified Mandamus, to call for records in Letter No.ANA.6.II/893/2007, dated 5.4.2016 on the file of the 3rd respondent and quash the same and direct the respondents 2 and 3 to execute the sale deed in the name of petitioner and also to initiate to appropriate disciplinary proceedings and criminal action as against the persons responsible for illegal transfer of allotment Plot No.788-A, Gummidipoondi Scheme, Special Zone 3, Tamil Nadu Housing Board.

For Petitioner : Mr.G.Nandhagopal for
Mr.R.Raja Raja

For Respondents : Mr.P.Bala Thandayutham,
Special Government Pleader (for R1);
Mr.D.Veerasekaran,
Senior Counsel (for R2 & R3)

ORDER

The order of cancellation dated 05.04.2016, cancelling the allotment of the house site made in favour of the petitioner is under challenge in the present writ petition.

2. It is not in dispute that the respondent Tamil Nadu Housing Board allotted residential house site to the petitioner on 07.12.1998. However, even before the allotment of the plot in favour of the petitioner, the Board allotted the very same plot in favour of Mr.R.Ravichandran, who failed to



W.P.No.30146 of 2016

pay the cost and subsequently, the allotment was cancelled. Pertinently, the allotment file of the petitioner dated 07.12.1998 was misplaced by the respondent Board and therefore, the respondent Board was not aware of the fact whether the allotment given to the petitioner was cancelled or not. Without ascertaining the said fact, the very same plot was allotted to one Thiru. A Gangan, who also failed to pay the cost and the allotment order was cancelled on 07.09.2007. Thereafter, the plot was re-allotted in favour of the one Mr. S. Jayasankar on 06.11.2007. In view of the said allotment, and based on the ground that the petitioner also failed to pay the land cost, the Board cancelled the allotment granted in favour of the writ petitioner on 07.12.1998.

3. The learned counsel for the petitioner Mr.Nandgopal, would submit that the Board has misplaced the allotment file of the petitioner and erroneously allotted the very same plot in favour of the 4th respondent. Knowing the said fact, the petitioner had not deposited the cost amount since the plot allotted in her name was re-allotted in favour of Mr.S.Jayasankar. The petitioner approached the Board Authorities to cancel the allotment of Mr. S.Jayasankar and confirm her allotment enabling her to make payment. Therefore, there was no intentional default



W.P.No.30146 of 2016

on the part of the petitioner in payment of land cost but on account of the mistake committed by the board.

4. In view of the fact that the Board has misplaced the allotment file of the petitioner and the fact remains that the plot was allotted in the name of the writ petitioner on 07.12.1998 and the subsequent allotment in favour of Mr S.Jayasankar was made without ascertaining the fact whether the plot was earlier allotted in favour of any person or not, the case of the petitioner is to be considered.

5. The learned counsel, on instructions from the petitioner made a submission that the petitioner is willing and ready to settle the entire land cost within a period of three months from the date of communication of the land cost by the respondent. The respondent shall calculate the land cost without any penal interest and communicate the same to the writ petitioner. On such communication the petitioner shall pay the land cost and on such payment, the respondent Board shall execute sale deed in favour of the petitioner without causing any undue delay.

6. Accordingly, writ petition stands allowed. However, there shall be



W.P.No.30146 of 2016

no order as to costs. Consequently, connected miscellaneous petition is closed.

11.01.2024

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)

To

1. The State Government of Tamilnadu,
rep. by its Secretary,
Tamilnadu Housing and
Urban Development Department,
St. George Town, Chennai.

2. The Managing Director,
Tamilnadu Housing Board Department,
Nandanam, Chennai-35.

3. The Superintendent/Manager,
(Sales and Service)
Tamilnadu Housing Board Department,
Anna Nagar Zone, Thirumangalam,
Chennai-600 101.



WEB COPY



W.P.No.30146 of 2016

S.M.SUBRAMANIAM. J.,

(sha)

W.P.No.30146 of 2016

11.01.2024