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W.P.No.22851 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22851 of 2018
and
W.M.P.No.26696 of 2018

S.Thangavel

... Petitioner

Vs.

1. The Superintendent,
The Tamil Nadu Housing Board,
Coimbatore Housing Unit,
Coimbatore – 641 012.
2. The Executive Engineer and Administration Officer,
CB Housing Unit, TNHB, HUDCO Colony,
Tatabad, Coimbatore.
3. The Marketing Manager and Service,
The Tamil Nadu Housing Board,
Coimbatore Housing Unit,
Tatabad, Coimbatore – 641 012.
4. S.Sundaraj
5. The Sub-Registrar,
Ganapathy, Sub-Registrar Office,
Coimbatore – 641 018.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent to cancel the sale deed dated 25.09.2009 registered on 02.11.2009 vide Document No.4643 of 2009 on the file of the SRO, Ganapathy executed by the 3rd respondent in favour of the 4th respondent and consequently further directed the 3rd respondent to execute a sale deed in favour of the petitioner herein.

For Petitioner : Mr.Krishna Kumar
for Mr.R.Bhagawat Krishna

General For R1 to R3 & R6 : Mr.P.S.Raman, Advocate
assisted by
Mr.D.Veerasekaran,
SC for TNHB

For R4 : Not ready in notice

For R5 : Mr.G.Krishna Raja,
Additional Government Pleader

ORDER

The writ on hand has been instituted to direct the 3rd respondent to cancel the sale deed dated 25.09.2009 registered on 02.11.2009 vide



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Document No.4643 of 2009 on the file of the SRO, Ganapathy executed by the 3rd respondent in favour of the 4th respondent and to direct the 3rd respondent to execute the sale deed in favour of the writ petitioner.

2. The Tamil Nadu Urban Development Project was approved by the Government of Tamil Nadu vide G.O.187 dated 08.03.1993. The petitioner submitted an application for allotment of a plot. An order of allotment was issued in favour of the petitioner, allotting Plot No.EWSB 74 and the petitioner was directed to pay a sum of Rs.161 per month for a period of 20 years on installment basis. Though the petitioner had paid the installments promptly, the sale deed was not executed. The allegations set out in the present Writ Petition would reveal that certain irregularities occurred in respect of allotment at the instance of the officials of the Tamil Nadu Housing Board and in view of such irregularities, the petitioner was deprived from getting the sale deed executed in his favour. An illegal allotment was made in favour of one Mr.Sundararaj and the complaint made by the petitioner also went in vein. Thus, the present Writ Petition came to be executed.



3. When the Writ Petition was taken up for hearing, this Court found that there are large scale illegalities in the matter of allotment of plots under various schemes and directed the respondent Board to produce the files along with the report regarding the actions taken against the officials, who have involved in such illegal activities.

4. The learned Advocate General, Mr.P.S.Raman would submit that the illegalities in the allotment were identified by the Board and actions were initiated both under Criminal law and under service rules in force. Departmental disciplinary proceedings were initiated against the officials, who have involved in such irregularities, illegalities, lapses etc., and 15 Departmental disciplinary proceedings are pending and criminal cases are also pending. Number of cases pending are 15, out of which final orders were passed in 5 cases. In respect of the remaining 10 cases, the final orders are yet to be passed. Number of persons involved would be around 37. The Board has taken steps to dispose of all such cases, pending against the officials.



5. Pendency of a criminal case is not a bar for disposal of

Departmental disciplinary proceedings initiated under the Services Rules.

The procedures to be followed for criminal trial and Departmental disciplinary proceedings are distinct and different. To convict a person under criminal law, strict proof is required. However, no such strict proof is required for the purpose of punishing an employee under the Discipline and Appeal Rules. Preponderance of probabilities are enough to punish an employee. All the illegalities and irregularities are in connection with the allotment of housing plots on dealing with the properties of the Tamil Nadu Housing Board. Therefore, the files are very much available with the respondent Board and there is no impediment for the Board authorities to proceed with the Departmental disciplinary proceedings and pass final orders on merits and in accordance with law and by affording opportunity to the delinquent officials. Contrarily the Board is not expected to keep the Departmental disciplinary proceedings pending for an indefinite period, merely on the ground that the criminal cases are pending. Such a proposition is unknown to service jurisprudence, since the procedures are distinct and different.



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6. In the present case, the files are very much available with the Board and therefore, they are expected to proceed with the Departmental disciplinary proceedings and dispose of the same, without causing any undue delay.

7. It is brought to the notice of this Court that few employees, who have involved in serious illegalities are reinstated and are working in Board, which creates lot of issues while dealing with the property matters in the Board. Thus, urgent actions in this regard is warranted.

8. As far as the case of the petitioner, Mr.S.Thangavel is concerned, the learned Advocate General, Mr.P.S.Raman would submit that the Managing Director passed an order in proceedings dated 24.01.2024 to pay the present market value of the plot allotted in favour of the petitioner. In view of the fact that the Board has proposed to redress the grievances of the petitioner, the said letter would be sufficient for the purpose of resolving the issues raised by the petitioner. As far as the actions initiated are concerned, the Board has to act immediately.



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9. In view of the facts and circumstances, the respondents are directed to proceed with the Departmental disciplinary proceedings that had already initiated, conclude the same and pass final orders by following the procedures and by affording opportunity to the delinquent officers, within a period of three months from the date of receipt of a copy of this order.

10. With these directions, the Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

29.01.2024

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Index : Yes

Speaking order

Neutral Citation : Yes

To

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Coimbatore Housing Unit,
Coimbatore – 641 012.

2. The Executive Engineer and Administration Officer,



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S.M.SUBRAMANIAM, J.

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