



W.P.No.17139 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17139 of 2022

S.Isaivani

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam,
Chennai-600 035.

2.The Executive Engineer,
Tamil Nadu Housing Board,
Bagalur Road,
Hosur-635 109.

3.The Superintending Engineer,
Tamil Nadu Housing Board,
Salem Circle,
Cowley Brown Road,
R.S.Puram, Coimbatore.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents herein to refund a sum of Rs.24,99,000/- towards difference in sale consideration charged excessively and refund a sum of Rs.2,62,500/- towards excess sale consideration collected for the unsold extent of 75 sq.ft within a time frame fixed by this Court.

For Petitioner : Ms.Chitra Sampathy
Senior Counsel
for Mr.T.S.Baskaran

For Respondents : Mr.D.Veerasekaran

ORDER

This Writ Petition has been filed to direct the respondents to refund a sum of Rs.24,99,000/- towards difference in sale consideration charged excessively and a sum of Rs.2,62,500/- towards excess sale consideration collected for the unsold extent of 75 sq.ft within a time frame fixed by this Court.

2. The learned Senior counsel appearing for the petitioner submits that the petitioner is the owner of MIG 171, New ASTC, HUDCO, Hosur



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and the adjacent plot MIG 170A measuring to an extent of 1741 sq.ft was lying vacant and the petitioner offered to purchase the said vacant plot vide representation dated 16.03.2015 to the third respondent. On 20.08.2015, the second respondent informed the petitioner that plot No.170A has been allotted to her and the tentative price was fixed at Rs.34,82,000/- for the aforesaid plot and the petitioner was asked to pay advance amount of Rs.12,18,700/-. When the petitioner went to make the payments, it was not accepted by the respondents. Though the petitioner has made requests by way of letters to the first respondent to receive the sale consideration and register the sale deed in her favour, the first respondent has not replied to the same which triggered the petitioner to file a writ petition in W.P.No.7090 of 2017 before this Court to direct the Tamil Nadu Housing Board to receive the sale consideration and register the sale deed in her favour, pursuant to which, this Court, vide order dated 22.01.2021, directed the respondents to consider the representations dated 14.03.2016 and 15.10.2016 made by the petitioner requesting them to receive the balance sale consideration and execute the sale deed in respect of the aforesaid plot



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and pass final orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of the order, however, the said order was not complied with, therefore, the petitioner has filed Contempt Petition No.1320 of 2021. After receipt of notice in the contempt petition, the second respondent issued a letter dated 20.11.2021 to the petitioner stating that the cost of Plot No.170A is Rs.3,500 per sq.ft and a sum of Rs.60,93,500/- was directed to be paid by the petitioner for issuance of the allotment order. The petitioner has also paid the said amount, however, during the registration of the sale deed in favour of the petitioner, she noticed that the sale consideration towards the said plot was mentioned as Rs.58,31,000/- and the measurement was shown as 1666 sq.ft, though the sale consideration was fixed earlier at Rs.34,82,000/- and the plot is measuring to an extent of 1741 sq.ft. The sale consideration of Rs.2,62,500/- towards unsold extent of 75 sq.ft was collected excessively by the respondents from the petitioner and it is to be refunded to the petitioner. The respondents ought not to have enhanced the sale consideration from Rs.2,000/- per sq.ft to Rs.3,500/- per sq.ft, without any reason and therefore,



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the respondents are liable to refund a sum of Rs.24,99,000/- being the differential amount of Rs.1,500/- per sq.ft charged excessively. The petitioner has made a request vide letter dated 14.02.2022 to the respondents to refund the aforesaid amount, however, there was no response from the respondents. Hence, the present writ petition has been filed.

3. The learned counsel appearing for the respondents submit that as per the Norms and Regulations of the Tamil Nadu Housing Board, once the sale deed is issued, the allottee is not eligible for refund and the petitioner has not requested for refund before issuance of the sale deed. In the year 2021, the Board has decided to allot the vacant plot and fixed Rs.3,500/- per sq.ft., based on the market value which was issued by the approved valuer.

4. Heard the learned Senior Counsel appearing for the petitioner and the learned counsel appearing for the respondents.



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5. It appears that the petitioner is the owner of MIG 171, New ASTC, HUDCO, Hosur and the adjacent plot No.170A measuring to an extent of 1741 sq.ft was lying vacant and she made an offer to purchase the said vacant plot before the respondents. The second respondent has issued a letter dated 20.11.2021 to the petitioner stating that the cost of Plot No.170 A is Rs.3,500/- per sq.ft and a sum of Rs.60,93,500/- was directed to be paid by the petitioner for issuance of the allotment order and the petitioner has also paid the said amount, which is not in dispute. However, while registering the sale deed in favour of the petitioner, it was noticed that the measurement of the aforesaid plot was shown as 1666 sq.ft, in the sale deed instead of 1741 sq.ft and the respondents have excessively collected a sum of Rs.2,62,500/- from the petitioner towards the sale consideration for the unsold extent of 75 Sq.ft. Therefore, the first respondent is directed to refund a sum of Rs.2,62,500/- (Rupees Two Lakhs Sixty Two Thousand Five Hundred only) which was paid by the petitioner excessively towards the sale consideration for the unsold extent of 75 sq.ft,



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to the petitioner, without any interest or execute the rectification deed by adding 75 sq.ft in favour of the petitioner, within a period of six weeks from the date of receipt of a copy of this order. However, insofar as the refund of Rs.24,99,000/-, which is towards the enhanced fixation of the value of the land, the amount of Rs.2,000/- per sq.ft being fixed, which was raised to Rs.3,500/- per sq.ft after five years cannot be found fault with as the land cost escalation has been taken into consideration, while fixing the land value. The said fixation cannot be found to be erroneous and the relief sought for in this regard cannot be granted.

6. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs.

05.09.2024

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb



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M.DHANDAPANI, J.

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