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W.P.No.22109 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.22109 of 2023
and
W.M.P.No.21516 of 2023

Ramani

.. Petitioner

vs

1.The Managing Director,
Tamil Nadu Urban Habitat Development Board,
No.5, Kamarajar Salai,
Chennai – 600 005.

2.The Executive Engineer,
Zone – 3,
Tamil Nadu Urban Habitat Development Board,
T.P.Chatram, Chennai – 600 010.

3.The Estate Officer,
Zone – 3,
Tamil Nadu Urban Habitat Development Board,
T.P.Chatram, Chennai – 600 010.

4.The Thirumoolar Colony Narpani Munnetra Sangam
Rep. By its President,
Thirumangalam,
Chennai – 600 040.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records relating 2nd respondent authority's impugned order bearing Na.Ka.No.1883/A/Ea.A3/2018 dated 02.06.2023 and 3rd respondent authorities impugned Form – B Notice bearing Na.Ka.No.1883/A/Ea.A3/2018 dated 30.06.2023 and quash the same as illegal.

For Petitioner : No appearance

For Respondents : Mr.Balaji
for R1 to R3
No appearance for R4



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ORDER

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Petitioner is called absent.

2. Initially, the petitioners had been the beneficiaries of an interim order, to vacate which, petitions had been filed. The vacate stay petitions had been allowed on 08.01.2024 in the following terms:-

"These petitions are filed to vacate order dated 26.07.2023. The restraint placed on the respondents is at paragraph 5, as follows:-

"5.The respondents are restrained from taking any precipitate action pursuant to the notice now issued since the order now sought to be complied with is conditioned upon the 2nd respondent making certain payments to the petitioner."

2. The officials respondents i.e., R1 to R3 have filed a counter dated 25.09.2023, wherein they have computed the amount refundable by them to the petitioner at a sum of Rs.32091/-. The tabulation is as follows:-

S.No	Date	Receipt	Amount
1	19.12.1995	43975 - Penal charges	Rs.4000
2	19.12.1995	43976 - 1st installment	Rs.1,210
3	19.12.1995	43977 - Total sale consideration / Land cost	Rs.10,890/-
Total			Rs.16.100
Interest for the period 19.12.1995 to 31.12.2006 at the rate of 9% PA			Rs.15,991/-
Grand Total			Rs.32,091

3. The petitioner makes two objections today:-

(i) that the quantum is incorrect insofar as while the principal paid by the petitioner has been correctly set out at Sl. Nos. 1 to 3 of the tabulation above, the interest ought to have been



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computed till the date dismissal of SLP by the Hon'ble Supreme Court which was only in 2022. To this, respondent counsel would state that the amount had been quantified and sent to the petitioner immediately after passing of order in Writ Appeal, which is dated 06.09.2006. However, cheque dated 28.12.2006 sent through RPAD on the same date was returned as 'unclaimed' and hence there could be no further liability mulcted on the respondents.

(ii) The second objection raised by the petitioner is that a Review Application is pending before the Hon'ble Supreme Court. However, Review Application is stated to have been filed on 24.11.2022, which was returned. It is unclear as to whether it has been re-presented and numbered. Learned counsel for petitioner does not have details immediately in this regard.

4. The order of allotment of Plot No. 25, Vivekanandar Street, Thirumoolar Colony, Anna Nagar West, Chennai has been set aside at all stages upto the Hon'ble Supreme Court. The respondents also confirm that they have not complied with the directions under order dated 26.07.2023. Upon condition that the respondents deposit a sum of Rs.50,000/- within a week from today to the credit of this writ petition before the Registrar General, High Court, Madras, the restraint placed on them under order dated 26.07.2023 is vacated.

5. These miscellaneous petitions are allowed.

6. List the writ petition in due course."

3. As against order dated 08.01.2024, the petitioner had filed writ appeal i.e., W.A.No.317 of 2024, which came to be dismissed on 31.01.2024 in the following terms:-

"Heard Mr.R.Arumugam, learned counsel for the appellant and Mr.S.Karthikeyan, learned counsel for respondents 1 to 3.

2. The present appeal is filed against the order passed by the learned Single Judge, refusing to



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grant stay.

3. Learned counsel for the appellant submits that against the order of cancellation of allotment, the appellant filed a Special Leave Petition (SLP) before the Apex Court. The Apex Court dismissed the said SLP. The appellant filed a review of the order passed by the Apex Court, dismissing the SLP. According to learned counsel for the appellant, the appellant is seeking interim order till the review is taken up by the Apex Court.

4. The allotment made in favour of the appellant is canceled. The said cancellation is confirmed upto the Apex Court. The Apex Court has dismissed the SLP filed by the appellant under a detailed order dated 24.11.2022. The contention of the appellant is that the appellant has filed a review of the said order, dismissing the SLP. He wants protection till the review is taken up by the Apex Court.

5. If the Apex Court is already seized with the matter, it would not be appropriate for this Court to entertain the present matter. In view of that, it would not be possible to accept the contentions of the appellant. The propriety also would not permit the Court to pass any further orders in view of the fact that the SLP has been dismissed by a detailed order.

6. On humanitarian ground, we direct the appellant to vacate the subject premises within a period of one month, i.e., on or before 29.02.2024. We have granted the time in view of the undertaking given by the appellant. If the appellant fails to vacate the premises within the time stipulated above, then the appellant would make herself liable for contempt for breach of the undertaking.

7. The writ appeal, accordingly, stands dismissed with the aforesaid observations. There shall be no order as to costs. Consequently, C.M.P.No.1955 of 2024 is closed."

4. At paragraph 6 it was observed by the Bench that on humanitarian ground the appellant was granted time to vacate the premises within a period of one month i.e., on or before 29.02.2024.

5. Mr.Balaji, who appears for R1 to R3 states that, that order



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has been complied with by the petitioner.

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6. Thus, nothing survives in this writ petition. Perhaps, it is for this reason, the petitioner has not bothered to appear before this Court today.

7. Recording the aforesaid narration, this writ petition is dismissed. No costs. Connected miscellaneous petition is closed.

13.06.2024

Index:Yes/No
Neutral Citation:Yes
ssm

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DR. ANITA SUMANTH,J.

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