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W.P.No.317 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.317 of 2022
and
W.M.P.No.352 of 2022

M.Thangaraj

.. Petitioner

VS

1.The Executive Engineer cum
Administrative Officer,
Vellore Housing Development Section
Tamil Nadu Housing Board,
Sathuvacherry, Phase I,
Vellore – 632 009.

2.The Executive Engineer,
Tamil Nadu Housing Board,
Tiruvannamalai Division,
No.10, 5th Cross Street,
Gandhi Nagar,
Tiruvannamalai – 606 601.

3.The Assistant Engineer,
Tamil Nadu Housing Board,
Tirupattur Project,
Tirupattur.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the 1st respondent letter No.A-3/639/1999 dated 12.11.2021 and quash the same and pass such further order or other orders as this Court may deem fit and proper in the circumstances of the case and thereby render justice.



W.P.No.317 of 2022

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.D.Veerasekaran
Standing Counsel

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ORDER

The petitioner is an ex-service man having joined the Indian Army as Sepoy in 1981. He had opted for voluntary retirement in the year 1996 with an unblemished record of service. He was allotted LIG House No.239, Phase II, Tiruppattur (in short, 'flat' / 'flat in question') under the ex-service man quota. The cost of flat and other amounts were quantified at the time of allotment.

2. The petitioner was in possession and in enjoyment of the flat and was remitting regular monthly instalments of a sum of Rs.1,427/- to the respondents. While so, on account of default, the allotment was cancelled by an order dated 14.02.2001 and the petitioner made several representations before the respondents for reconsideration of the same. Upon consideration of his pleas, the order of cancellation was revoked by an order dated 11.06.2019. This is an admitted position.

3. Thereafter, notice was issued to the petitioner on 13.08.2021, quantifying the monthly instalment at a sum of Rs.31,394/-. On account of defaults, the impugned order has come to be passed on 12.11.2021 calling upon the petitioner to deposit a



W.P.No.317 of 2022

sum of Rs.11,76,900/- as the remaining consideration for the flat.

The order calls upon the petitioner to remit the balance consideration within 15 days under threat of eviction. That order has been challenged by the petitioner in this writ petition. WMP.No.352 of 2022 was filed seeking a stay of the impugned order.

4. At the time of admission on 11.01.2022, the following order was passed by the learned Judge:-

"The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the Letter No.A-3/639/1999 dated 12.11.2021 issued by the 1st respondent's and to quash the same as arbitrary in nature.

2.The case of the petitioner is that the 2nd respondent allotted the L.I.G plot in favour of the petitioner under Ex-Servicemen quota vide Lr.No.TR.3/639/99 and fixed a tentative cost of Rs.1,42,400/- and the petitioner initially deposited a sum of Rs.42,800/- and agreed to pay the balance amount in monthly instalment of Rs.1427/- and due to family circumstance, he committed default in paying the monthly instalment. Hence, the 1st respondent has cancelled the allotment order of the petitioner vide order dated 14.02.2001. On receipt of such cancellation order, the petitioner approached the 1st respondent for revoking the cancellation order and the 1st respondent vide his proceedings dated 11.06.2019 issued a memorandum No.A2-3/29636-2015 and revoked the cancellation order / set aside the allotment order. Thereafter, the 1st respondent issued a notice dated 13.08.2021 informing the petitioner about the due amount



WEB COPY



W.P.No.317 of 2022

of Rs.31,394/- in respect of monthly instalment and directed the petitioner to pay a sum of Rs.11,04,000/- within a period of two months, otherwise the petitioner has to handover the possession on or before 31.08.2022. While so, the petitioner approached the 1st respondent on 10.08.2021 to obtain breakup details about the amount paid by the petitioner and the reason for paying a huge sum of Rs.11,04,000/-, however, there was no response. In such circumstances, the 1st respondent vide impugned letter dated 12.11.2021 directed the petitioner to pay a sum of Rs.11,76,900/- towards instalments due. Challenging the same, this Writ petition is filed.

3. The learned counsel appearing for the petitioner submits that the petitioner was not given with any explanation in respect of amount arrived in impugned letter dated 12.11.2021 and the 1st respondent has not issued notice under section 84(2) to the petitioner. However, he fairly conceded that the petitioner, without prejudice to his rights, is ready to deposit a sum of Rs.6,00,000/- to the 1st respondent within a period of two weeks on or before 24.01.2022. Hence, he submitted that, it would suffice, if this Court issues direction to the respondents to register a sale deed in favour of the petitioner.

4. In view of above submission made by the learned counsel for the petitioner, this Court without going into the merits of the case, issues direction to the petitioner to deposit a sum of Rs.6,00,000/- to the 1st respondent on or before 24.01.2022.

5. List the matter on 27.01.2022 for reporting compliance."

5. The petitioner has thus been permitted to continue in possession and occupation of the flat, conditional upon remittance



W.P.No.317 of 2022

of a sum of Rs.6,00,000/- on or before 24.01.2022. The parties have correctly understood the above order as being a conditional order of stay of eviction.

6. Learned counsel for the respondents would also accede to the receipt of Rs.6,00,000/- as ordered by the Court on 11.01.2022, within time.

7. Thus with the order passed on 11.01.2022, and compliance of the condition imposed thereunder, the clock stops ticking as far as the impugned demand is concerned.

8. However, the first respondent has filed a counter dated 01.02.2022 wherein they have quantified the remaining consideration at a sum of Rs,6,19,891/- on as February, 2022. The balance consideration quantified under the impugned order is Rs.11,76,900/-. After remitting a sum of Rs.6,00,000/-, what remain is a sum of Rs.5,76,900/-. Thus, the quantification under counter filed on 01.02.2022 at Rs.6,19,900/- implies that the demand has been enhanced even pending writ petition and despite the order dated 11.01.2022. In my considered view, this is incorrect.

9. On 18.01.2024, the petitioner had made an offer that he would remit the sum of Rs.6,19,900/- quantified under the counter as a measure of settlement of the dispute and this Court has



W.P.No.317 of 2022

recorded that the respondents do not object to his request.

WEB COPY

10. The petitioner has remitted the amount and filed a bank deposit slip dated 26.02.2024, evidencing the same. The respondents also accede to the receipt of Rs.6,19,900/-.

11. This writ petition should thus be closed recording that the entire disputed demand (and more) has been received by the respondents. While so, the respondent counsel now raises a new and further demand for interest for the intervening period between 2022 and today. This demand is, in the considered opinion of the Court, wholly improper and contrary to law.

12. In fact, the petitioner has remitted a sum of Rs.43,000/- [Rs.6,19,900/- minus Rs.5,76,900/-] in excess of what has to be paid under the impugned order.

13. Though the respondents are not entitled to the excess amount, since the petitioner has remitted the same voluntarily, I do not order a refund of the same to the petitioner.

14. In fine, the amount of Rs.6,19,900/- paid by the petitioner will be taken to be the full and final amount / settlement of the deed under impugned order dated 12.11.2021, with no further dues from his side. Sale deed in respect of the flat in question will be executed within a period of four weeks from date of receipt of a copy of this order.



W.P.No.317 of 2022

WEB COPY

15. This writ petition stands disposed in terms of this order.

No costs. Connected miscellaneous petition is closed.

26.03.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

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DR. ANITA SUMANTH,J.

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