



W.A.No.295 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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- 1.The Executive Engineer,
Mogappair Division,
Presently the Executive Engineer and
Administrative Officer,
J.J. Nagar Division,
Tamil Nadu Housing Board,
TNHB Shopping Complex, Thirumangalam,
Chennai – 600 101.
- 2.The Manager Marketing & Service,
Mogappair Division,
Presently J.J. Nagar Division,
Tamil Nadu Housing Board,
TNHB Shopping Complex, Thirumangalam,
Chennai – 600 101.
- 3.The Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai-600 034.

.. Appellants

Vs.



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J.Duraipandian

.. Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 27.7.2022 passed in W.P.No.37374 of 2007.

For the Appellants : Mr.D.Veerasekaran

For the Respondent : Ms.Anusha Peri
for Mr.Rahul Balaji

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.D.Veerasekaran, learned counsel for the appellants; and, Ms.Anusha Peri, learned counsel for Mr.Rahul Balaji, learned counsel for the respondent.

2. The present respondent/original writ petitioner was an allottee of the shop premises i.e. Shop No.9, J.J.Nagar, Mogappair West, Chennai.

3. A letter was issued to the respondent on or about 24.12.1994. The respondent was required to pay the amount by installments.

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However, possession was not delivered to the respondent till the year 1997. The respondent sought refund of excess amount paid by him.

4. The learned Single Judge has passed the following order:

"14. In view of the above discussion, the impugned letter issued by the 1st respondent dated 31.07.2006, is hereby quashed. The 1st respondent is directed to pass a fresh order and determine the total amount payable by the petitioner. While undertaking this exercise, the 1st respondent shall not impose any penal interest for the delay payment of EMI till the date of handing over of the possession on 21.01.1997. That apart, the 1st respondent shall also take into consideration G.O.Ms.No.634, dated 18.09.1992 and give credit to the interest payable on the initial deposits made by the petitioner till the handing over of the shop. This exercise shall be completed by the 1st respondent, within a period of four weeks from the date of receipt of copy of this order. On receipt of the demand from the 1st respondent, the petitioner shall make the payment, within a period of four weeks thereafter. On such payment, the Manager, Marketing and Service, JJ Nagar Division, shall execute the Sale Deed in favour



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of the petitioner, within a period of six weeks thereafter."

5. Learned counsel for the appellants submits that the reliance placed by the learned Single Judge on G.O.Ms.No.634 dated 18.9.1992 is misplaced. The said government order applies to the residential premises and not commercial one. In the present case, the allotment was for commercial premises. Therefore, said government order could not have been applied. The respondent has committed default in payment of the installments. As such, he is liable to pay the penal interest.

6. It appears that though the letter was issued in the year 1994 directing the respondent to make construction within one year, the possession was handed over only on 21.1.1997. No plausible explanation is coming forth from the appellants as to why possession was not delivered for more than two years. Even assuming that G.O.Ms.No.634, dated 18.9.1992 does not apply, still the appellants would not be justified in claiming penal interest from a date prior to the date of putting the respondent in possession and, precisely, that



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has been observed by the learned Single Judge.

7. In the light of the above, no case is made out for our interference. The writ appeal is dismissed. There shall be no order as to costs. Consequently, C.M.P.No.1805 of 2024 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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