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W.P.No.33489 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

CORAM :

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.33489 of 2022
and
WMP.No.32933 of 2022

P.Krishnaraj

...Petitioner

Vs.

1. Tamil Nadu Housing Board,
Rep.by its Managing Director,
Chennai – 600 035.
2. The Executive Engineer-cum-Administrative Officer,
Kovai Housing Development Division,
Tamil Nadu Housing Board,
Tatabad, Coimbatore – 12.

...Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings letter No.A4/3040/2011 dated 23.11.2022 issued by the 2nd respondent to the petitioner, quash the same and direct the 2nd respondent to execute the sale deed in favour of the petitioner.

For Petitioner : Mr.D.Ashok Kumar



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For Respondents : Mr.D.Veerasekaran, SC

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ORDER

This writ petition has been filed challenging the proceedings dated 23.11.2022, by which, the 2nd respondent confirmed the cancellation of allotment given to the petitioner and further directed the petitioner surrender the house site with a default clause and to consequently direct the 2nd respondent to execute a sale deed in favour of the petitioner in respect of the allotted house site.

2.The case of the petitioner is that the respondent Board allotted a house site bearing No.MIG-B-15 measuring an extent of 1,235 sq.ft at Kaalapatti Scheme in Ilango Nagar to the petitioner in the year 2011 for a total consideration of Rs.4,60,000/- and pursuant to the said allotment, the petitioner paid a sum of Rs.4,00,000/- in two instalments even in the year 2011 itself and on 17.05.2011, the allotment order and the possession certificate were issued to the petitioner and the petitioner continues to pay the electricity bill and the property tax without any fail. While so, when the petitioner approached the 2nd respondent several times in the year 2013 seeking to execute a sale deed in her favour in respect of the subject house site, it did not evoke any response. However, to his shock and surprise, the



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2nd respondent, vide order dated 21.01.2014, cancelled the allotment order

made in favour of the petitioner. Challenging the same, the petitioner earlier

filed W.P.No.5661 of 2014 and it was allowed on 12.12.2018 with a liberty

to the 2nd respondent to issue notice to the petitioner and conduct a property

inquiry, if at all any violation was found on the part of the petitioner.

Thereafter, the 2nd respondent called the petitioner for the inquiry, pursuant

to which, the petitioner also met the 2nd respondent in person on 28.05.2019,

however, there was no further progress. Thereby, the petitioner again made

several requests to the 1st respondent to execute the sale deed. In the

meantime, the 2nd respondent vide proceedings dated 06.05.2014, directed

the petitioner to get back the amount already paid, which order was also

challenged by the petitioner before this Court by filing W.P.No.18342 of

2014 and it was dismissed on 26.11.2021, confirming the cancellation order

dated 21.01.2014 and granting liberty to the petitioner to take a decision

either to get back the amount paid or pay the actual cost as fixed by the

respondent Board. Even thereafter, the petitioner made a representation

dated 13.05.2022 to the 1st respondent stating that he is ready to pay an

additional amount of Rs.10,00,000/- in addition to the amount already paid.

But, the 2nd respondent, by the impugned order, confirmed the cancellation

order and further directed the petitioner to surrender possession of the house



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site allotted to him. Hence, the petitioner is before this Court.

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3. Learned counsel for the petitioner submitted that, the petitioner already paid a sum of Rs.4 lakhs in the year 2011 and is ready to pay the balance amount of Rs.60,000/- with reasonable interest. Accordingly, he prayed for appropriate orders of this Court directing the 2nd respondent to execute a sale deed in favour of the petitioner in respect of the allotted house site, upon receipt of the balance amount from the petitioner.

4. On the above said contentions, heard the submissions of the learned counsel for the respondents and perused the materials available on record.

5. A perusal of the material documents placed on record more particularly the impugned order reveals that, though the earlier cancellation order dated 06.05.2014 was challenged by the petitioner by filing W.P.No.5661 of 2014 and the same was set aside by order of this Court dated 12.12.2018, subsequently, only at the instance of the petitioner, this Court, by order dated 26.11.2021 in W.P.No.18342 of 2014, confirmed the cancellation order dated 21.01.2014 and directed the petitioner either to take back the amount paid or to pay the actual cost fixed by the respondent



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Board. This is the third round of litigation.

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6. The allotment is of the year 2011. Even in the year 2021, while passing the order dated 26.11.2021 in W.P.No.18342 of 2014, the respondent Board stated that the subject property was worth about 40 lakhs. We are now in 2024. Hence, definitely, there would have been some increase in the price of the house site. Though the petitioner stated in the affidavit filed in support of this writ petition that he is ready to pay the additional amount of Rs.10 lakhs, this Court cannot permit him to pay that amount, as it would cause loss of revenue to the respondent Board. Further, earlier, the petitioner was given chances either to take back the amount paid or to pay the additional amount. However, the petitioner is not willing to pay the amount as determined by the respondent Board nor handed over the possession of the subject land to the respondent Board. The petitioner is evading to surrender the possession of the subject property, by repeatedly approaching this Court under Article 226 of The Constitution of India with regular intervals and the said act of the petitioner cannot be entertained. In such view of the matter, this Court is not inclined to interfere with the impugned order dated 23.11.2022 issued by the 2nd respondent.

7. In the light of the above discussions, this Court directs the



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petitioner to surrender possession of the house site allotted to the petitioner

forthwith. The respondent Board is also directed to return the amount paid

by the petitioner together with 6% interest from the date of payment up to

till the date of repayment within a period of two weeks from the date of

receipt of a copy of this order.

8. With the above observations and directions, this Writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous petition is closed.

06.09.2024

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Internet : Yes (or) No

To

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M.DHANDAPANI, J.

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