



W.P.(MD)No.4754 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.4754 of 2021
and
W.M.P.(MD)Nos.3869 and 3870 of 2021

K.C.Kalpana

... Petitioner

Vs.

The Competent Authority / Manager,
Sales and Service,
Tamil Nadu Housing Board,
Madurai Housing Board Division,
Ellis Nagar,
Madurai – 625016.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned letter No.MMS/EMI-Arrear-Notice/2020 dated 02.11.2020 and quash the same as incorrect and consequently directing the respondent to consider the representation of the petitioner dated 20.11.2020 in the light of the provisions as contemplated under sub-sections 3 and 4 of section 84 of the Tamil Nadu State Housing Board, Act, 1961.



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For Petitioner : Mr.C.M.Arumugam

For Respondent : Mr.R.Sivakumar
Standing Counsel

ORDER

The Writ Petition is directed against the impugned notice dated 02.11.2020 issued by the respondent directing the writ petitioner to pay the balance monthly installments on or before 15.11.2020, failing which, allotment will be cancelled.

2. It is not in dispute that the writ petitioner has applied for allotment of plot at Sattur Phase-II vide application dated 28.02.2011 and that in the lot held on 27.11.2013, the writ petitioner was selected for allotment of Plot No.HIG-188, Sattur and allotment order was issued on 23.01.2014 fixing the total amount at Rs.9,92,500/- with a direction to pay initial amount of Rs.3,97,000/- and monthly installment at Rs.7,041/- for a period of 13 years commencing from the month of February 2014.

3. It is not in dispute that on the request of the writ petitioner, the respondent has changed the payment schedule and directed the writ



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petitioner to pay initial amount at Rs.99,520/- and monthly installment at Rs.10,561/- and that the writ petitioner has started to comply with the revised schedule.

4. It is also not in dispute that since the writ petitioner has failed to remit the Equated Monthly Installments regularly, the respondent has issued a demand notice dated 17.02.2020 and that thereafter sent the impugned notice dated 02.11.2020 directing payment of the entire balance installments.

5. The respondent has produced account abstract and working sheet and whereunder, after deducting the amount already paid, they have shown Rs.6,31,360/- as the total amount due as of now and they have also calculated outstanding balance for getting sale deed towards the payment of the entire balance amount at Rs.9,14,847/-. No doubt, as rightly pointed out by the learned counsel appearing for the writ petitioner, the said amount would also include penal interest at Rs.2,48,263/-.



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6. The learned counsel appearing for the writ petitioner would submit that though the respondent has claimed interest at 10.50% per annum, they have now calculated the penal interest at 13.50%, which is very much high. As rightly pointed out by the learned counsel appearing for the respondent, the contract between the parties stipulate penal interest at the said rate and as such, the contention of the writ petitioner's side cannot be entertained.

7. The learned counsel appearing for the writ petitioner would submit that the respondent may be directed to reduce the penal interest and the writ petitioner is ready to pay one time payment.

8. The learned counsel appearing for the respondent would submit that the Government has issued an order in G.O.(Ms)No.194, Housing and Urban Development Department, dated 04.11.2022 giving exemption from payment of penal interest for a particular period, provided the member has to pay entire amount in one payment and that the said scheme was already over as the same was between 01.12.2022 and 03.05.2023. He would further submit that the respondent is not having



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any power or jurisdiction to extend the said scheme for the writ petitioner at this point of time.

9. As rightly contended by the learned counsel appearing for the respondent, the writ petitioner has committed default in payment of Equated Monthly Installment from the beginning itself. But as rightly pointed out by the learned counsel appearing for the writ petitioner, the writ petitioner has paid Rs.2,00,000/- on 20.03.2020 and subsequent to the filing of the present writ petition, she has paid Rs.3,00,000/- on two occasions on 17.03.2021 and 22.10.2021 and on that basis, interim order was granted to her. Moreover, as rightly pointed out by the learned counsel appearing for the writ petitioner, during the pendency of the present writ petition, the above said scheme came to be implemented.

10. The main grievance of the writ petitioner is that due to Corona and the subsequent problems, she could not pay the amount.

11. Considering the payment of Rs.8,00,000/- and also taking note of the fact that during the pendency of the present writ petition, the said



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Government Order in G.O.(Ms)No.194, Housing and Urban Development Department, dated 04.11.2022 came to be issued, this Court is inclined to extend the benefit of the scheme to the writ petitioner. Hence, the writ petitioner is liable to pay Rs.9,14,847/- (Rupees Nine Lakhs Fourteen Thousand Eight Hundred and Forty Seven only) as one time settlement and after deducting the penal interest for the period between 01.12.2022 and 03.05.2023, the writ petitioner has to pay the balance amount within a period of three months from the date of receipt of a copy of this order, failing which, she will not be entitled to the benefit of the said scheme.

12. With the above direction, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

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NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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K.MURALI SHANKAR, J

csm

Order made in
W.P.(MD)No.4754 of 2021
and
W.M.P.(MD)Nos.3869 and 3870 of 2021

Dated : 03.07.2024