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W.P.(MD)NO.19961 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.19961 of 2022

M.Sadhiq Batcha

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nanthanam, Chennai – 35.
2. The Executive Engineer,
Tamil Nadu Housing Board,
Trichy Housing Board Division,
Kasamalai Colony, Trichy.
3. Poigaipatti Panchayat,
Rep. by the Executive Officer,
Manaparai Taluk,
Trichy District – 621 306.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to refund the deposited amount of Rs.8,00,000/- with penal interest to the petitioner in respect of allotment index No.TR 034 within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
For R-1 & R-2 : Mr.M.Suresh,
Standing counsel.

For R-3 : No appearance.

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ORDER

Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the Tamil Nadu Housing Board.

2. Even though the third respondent local body has been served and their name is printed in the cause list, they have not chosen to enter appearance to oppose the writ prayer.

3. The petitioner herein paid a sum of Rs.8 Lakhs and obtained allotment of the petition mentioned commercial plot. The Board is yet to execute the sale deed in favour of the writ petitioner. The petitioner after remitting the entire amount, went to the spot. To his shock and surprise, he found that the local body had erected a sintex water tank and also a bore well in the plot belonging to the Housing Board. This is rank encroachment by the local body. Be that as it may, in this background, the petitioner applied to the Housing Board seeking refund of the deposit amount. Since the Housing Board did not concede to his request, this writ petition came to be filed.



4. When the matter was taken up for hearing, the learned counsel appearing for the petitioner submitted that the petitioner has changed his mind and that he will be satisfied if the Housing Board is directed to execute the sale deed and the local body is directed to close the unused bore well. It is admitted by the petitioner as well as the Board that the sintex water tank has already been shifted.

5. No exception can be taken to the petitioner's request. The Housing Board is a State instrumentality and in response to the notification issued by them, the petitioner took part in the tender process and turned out to be the successful allottee. The Housing Board is therefore directed to execute a pucca sale deed in favour of the petitioner in respect of the petition mentioned commercial plot forthwith and without any delay. The petitioner had identified two kinds of encroachment:-

- i) water tank and
- ii) put up a bore well.

The water tank has already been shifted. Unused bore well ought to be closed. An unused bore well can pose grave threat to human safety. We come across several incidents of young children falling into such unused



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bore wells. Since the third respondent has not come forward to close the bore well, I permit the petitioner to close the bore well on his own. This writ petition stands allowed on these terms. No costs.

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NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN,J.

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