



W.P(MD)No.6573 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.6573 of 2018

and

W.M.P(MD)No.6364 of 2018

P.Murugesan

... Petitioner

Vs

1.The Managing Director,
Tamil Nadu Housing Board,
Nanthanam,
Chennai.

2.The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit,
Ellis Nagar,
Madurai – 625 010.

3.P.Magudapathy

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent vide Lr.No.R4/2438/93-AVM dated 23.09.1999 and the consequential impugned proceedings passed against the petitioner in Lr.No.A3/2438/93 dated 17.01.2018 and quash the same as illegal, arbitrary and against the principles of natural justice and consequently direct the second respondent either to allot an alternative plot at any place within the administrative jurisdiction of



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the second respondent or to refund the paid amount to the petitioner which was credited in the second respondent's account from 08.09.1993 to September 1998 along with interest.

For Petitioner : Mr.R.Gowri Shankar
For RR 1 & 2 : Mr.R.Sivakumar
For R – 3 : Ms.A.Hafiza

ORDER

This Writ Petition has been filed challenging the order of allotment issued in favour of the third respondent by the first respondent dated 23.03.1999 and the consequential impugned order passed by the second respondent, dated 17.01.2018.

2.Challenging the order of allotment issued in favour of the third respondent by the first respondent, dated 23.03.1999, the petitioner preferred an appeal before the second respondent and the same was also rejected by order dated 17.01.2018, which is under challenge in this Writ Petition.

3.Heard the learned counsel appearing on either side and perused the materials placed before this Court.



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4. Admittedly, the third respondent was allotted a plot in the year 1999 and the same was challenged after a period of 17 years. There is no explanation from the petitioner for the huge delay in challenging the order of allotment issued in favour of the third respondent. After allotment in favour of the petitioner, due to default in payment of balance dues, the allotment order was cancelled and allotted in favour of the third respondent.

5. Originally, the said plot was allotted in favour of the petitioner by allotment order, dated 26.10.1993 under Avaniyapuram Housing Scheme. After allotment, the petitioner was directed to deposit a sum of Rs.8,438/- within a period of 15 days from the date of receipt of the allotment order. Though the petitioner had paid the initial deposit for the execution of the lease cum sale agreement and the plot was handed over to the petitioner on 26.08.1994, the petitioner failed to pay the monthly instalment of Rs.1,824/- upto the month of September 1995 and a sum of Rs.1,216/- from the month of October, 1995. Therefore, the petitioner was issued with a notice under Section 84(2) of the Tamil Nadu Housing Board Act, 1961 for non-payment of monthly instalment on 19.08.1998. Subsequently, a notice under Section



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84(1) of the Tamil Nadu Housing Board Act, 1961 was issued on 15.09.1998. However, there was no response from the petitioner and as such, the allotment order was cancelled for non-payment of monthly instalment on 23.03.1999 by the second respondent. Thereafter, a public auction was conducted on 23.01.2001 for sale in respect of unsold plots including the plot which was allotted in favour of the petitioner. In the public auction, six persons participated including the third respondent. The subject plot was sold out in favour of the third respondent who was being highest bidder in the open auction. After a lapse of 13 years, the petitioner filed a Writ Petition before this Court in W.P.No.10452 of 2012 for re-allotment of the said plot to the petitioner by receiving balance amounts. However, the said Writ Petition was dismissed on the ground that without challenging the order of cancellation of allotment, the relief sought for in the said Writ Petition cannot be considered. Therefore, now the petitioner challenged the order of cancellation of allotment which was made on 23.09.1999 and the rejection order of his request, dated 17.01.2018.

6.In view of the above, this Court finds no infirmity or illegality in the order passed by the second respondent. The Writ



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Petition itself is devoid of merits and the same is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

04.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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