



W.A.(MD) No.809 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2024

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

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1.The Managing Director
Tamil Nadu Housing Board
Anna Salai, Chennai-600 035

2.The Executive Engineer and
Administrative Officer
Madurai Special Division
Tamil Nadu Housing Board
Madurai-652 010

... Appellants

-vs-

1.P.Kamal Abdul Nazar

2.The Secretary to Government
Housing and Urban
Development Department
Government of Tamil Nadu
Fort St.George
Chennai-600 009

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 11.10.2013, passed in Rev.Appln.(MD) No.20 of 2013 in M.P.(MD) No.1 of 2010 in W.P.(MD) No.3174 of 2008, on the file of this Court.



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For Appellants : Mr.A.Kannan

For Respondents : No appearance for R1
Ms.D.Farjana Ghoushia
Special Government Pleader for R2

J U D G M E N T

[Judgment of the Court was made by RMT.TEEKAA RAMAN, J.]

This writ appeal is filed against the order dated 11.10.2013, passed in Rev.Appln.(MD) No.20 of 2013 in W.P.(MD) No.3174 of 2008, whereby and whereunder, this Court has dismissed the review application filed by the appellant – Housing Board.

2. Heard Mr.A.Kannan, learned counsel for the appellant – Housing Board and Ms.D.Farjana Ghoushia, learned Special Government Pleader appearing for the second respondent. There is no representation for the first respondent / writ petitioner.

3. From the records, we find that the first respondent / writ petitioner filed the writ petition in W.P.(MD) No.3174 of 2008 challenging the acquisition proceedings made by the appellant – Housing Board. Though in



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the original counter affidavit, it was stated by the second appellant that the amount of Rs.8,96,200/- was towards the market value of the land, in the additional affidavit dated 27.11.2009 filed subsequently, he had clarified that they are prepared to execute necessary sale deed in favour of the first respondent / writ petitioner, if he pays development charges to the tune of Rs.2,63,000/- and pursuant to the same, the first respondent / writ petitioner had agreed to pay the said amount. After recording the undertaking given by the Executive Engineer and Administrative Officer, Tamil Nadu Housing Board, Madurai / second appellant herein that they will provide alternative site and also execute sale deed, on payment of necessary charges, the said writ petition was disposed of by order dated 30.11.2009. Subsequently, the appellant – Housing Board filed the review application in Rev.Aplw(MD) No.20 of 2013, seeking to review the order passed in the said writ petition, on the ground that the the second appellant had filed the undertaking in the writ petition without the consent of the first appellant herein.

4. This Court, by order dated 11.10.2013, dismissed the review application. The operative portion of the said order is extracted hereunder:

“4.Admittedly, the affidavit was filed by the second petitioner / third respondent before this Court and based



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on the averments made in the affidavit, the order came to be passed. For filing such affidavit, whether the second petitioner / third respondent is to get proper approval from the first petitioner / second respondent or not, is not a matter of consideration before this Court. The Court acted only as per the affidavit filed before the Court. In such view of the matter, if any, default had been committed by the second petitioner / third respondent, it is for the petitioners to work out their remedy by way of an appeal. There is no error apparent in the order passed by this Court in the writ petition. In view of the same, I do not find any valid ground to review the order.”

5. Keeping the principles governing the criteria for entertaining review applications in mind, we find that the present point agitated by the appellant – Housing Board does not fall under anyone of the principles to review the order passed in the writ petition. Factual finding appears to have been given by the learned Single Judge in Paragraph No.5 of the order passed in the writ petition, wherein the undertaking given by the appellant – Housing Board has also been recorded. For easy reference, Paragraph No.6 of the order passed passed in the writ petition is extracted hereunder:

“6. In view of the above, without going into the other merits of the writ petition, the writ petition is disposed



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of recording the above statements made on the either side, with a liberty to the petitioner to pay a sum of Rs.2,63,000/- within a period of four weeks from the date of receipt of a copy of this order and with a further direction to the 3rd respondent to execute necessary sale deed in favour of the petitioner within a further period of eight weeks from the date of payment. It is further directed that in respect of the land of the petitioner, on the very same day, at the cost of the 3rd respondent, the petitioner shall execute a sale deed in favour of the 3rd respondent. No order as to costs. Connected M.P.(MD) No. 1 of 2008 is closed.”

6. Taking into consideration the fact that based upon the factual position, as extracted above, the writ petition has been disposed of and pursuant to the orders passed in the writ petition, the appellant – Housing Board is also said to have executed a sale deed on payment of Rs.2,63,000/- towards development charges, we are of the view that now, it is not open to the appellant – Housing Board, by way of a review application, to seek for enhancement of development charges. We find no error or infirmity in the order passed by this Court in the review application.



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7. Accordingly, this writ appeal is dismissed. No costs.

[T.K.R., J.] [N.S., J.]

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

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To:
The Secretary to Government,
Housing and Urban
Development Department,
Government of Tamil Nadu,
Fort St.George,
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