

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

TUESDAY, THE SECOND DAY OF JANUARY
TWO THOUSAND AND TWENTY FOUR

PRESENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT APPEAL NO: 103 OF 2013

Writ Appeal under clause 15 of the Letters Patent Appeal against the order dated 25.09.2012 passed in W.P. No. 8825 of 2007 on the file of the High Court.

Between:

1. Andhra Pradesh Housing Board, Rep.by its Vice Chairman and Housing Commissioner, Gruhakalpa, M.J.Road, Hyderabad
2. The Executive Engineer (Hg), Western Division, AP Housing Board, Hyderabad

...APPELLANTS/RESPONDENTS 2 & 3

AND

1. Smt. Y.V. Sudharani, W/o Giridhamath C/o M.Sudhakar, MIG, Flat No.2/2 KPHB colony III Phase, Hyderabad

....RESPONDENT/PETITIONER

2. State of Telangana, Rep. by its Secretary, Housing Department, Telangana Secretariat, Hyderabad.
3. J.Mohan Krishna, S/o Siva Prasad r/o 42, MIG, 7th Phase, KPHB Hyderabad

C.T. is amended as per Court Order dated 02.01.2024 in I.A.No.3 of 2014 (WAMP No.4042 of 2014)

...RESPONDENTS

I.A. NO: 2 OF 2013(WAMP. NO: 233 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay operation of the order dt. 25.09.2012 passed in W.P. No. 8828 of 2007, pending disposal of W.A. No. _____/2012

I.A. NO: 3 OF 2013(WAMP. NO: 866 OF 2013)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to

receive the copy of the sale deed dt. 17.11.2007 executed by the A.P. Housing Board in favour of Respondent No.3 herein, on record in W.A.No.103/2013

Counsel for the Appellants: SRI J PRABHAKAR, SENIOR COUNSEL

Counsel for Respondent No. 1: SMT. K SWARNA SESHU

Counsel for Respondent No. 2: GP FOR HOUSING

Counsel for Respondent No. 3: SRI P. SRI RAM

The Court made the following: JUDGMENT

**THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI**

WRIT APPEAL No.103 of 2013

JUDGMENT: (per the Hon'ble the Chief Justice Alok Aradhe)

Mr. J. Prabhakar, learned Senior Counsel appears for the appellants.

Mr. P. Sri Ram, learned counsel appears for respondent No.3.

2. This intra court appeal is filed against the order dated 25.09.2012 passed by the learned Single Judge by which Writ Petition No.8825 of 2007 preferred by respondent No.1 has been allowed and the order dated 24.06.2006 passed by appellant No.2 has been set aside.

3. Facts giving rise to filing of this appeal briefly stated are that sometime in the year 1994, a notification was issued by the erstwhile Andhra Pradesh Housing Board (hereinafter referred to as 'the Board') inviting applications for allotment of LIG Houses. Respondent No.1 on 11.11.1994 submitted an application seeking allotment of a house. On 05.06.1995, the Board informed respondent No.1 about the schedule of

payment. On 28.11.1996, by draw of lots, House No.545 in Phase VII situate at KPHB Colony, Hyderabad, was allotted to respondent No.1. However, the balance consideration amount was not paid by respondent No.1.

4. Thereupon, the Board issued a notice dated 20.08.2001 to respondent No.1 asking her to make payment of the balance sale consideration and execute the agreement and if she does not execute the agreement within one month, the allotment made in her favour shall be cancelled. Thereafter, another notice dated 17.05.2004 was issued to respondent No.1 which was received back with the endorsement that the addressee has left without instructions.

5. Thereupon, a notice dated 26.01.2006 was published in the newspaper stating that respondent No.1 has neither taken possession nor has executed the agreement. Thereafter, in response to the aforesaid notice, one Narayana Rao paid the balance sale consideration on 30.01.2006. Thereafter, by a communication dated 15.02.2006, respondent No.1 was asked to pay the publication charges and to execute the agreement of

sale. Thereafter, on 24.06.2006, the allotment executed in favour of respondent No.1 was cancelled.

6. The Board on 04.08.2006 issued a fresh notification in the newspapers for auction of the subject house. The auction was held on 22.08.2006 in which respondent No.3 in this appeal participated and was declared as the successful bidder and the allottee. The order of allotment was issued in his favour on 02.03.2007.

7. Thereafter, respondent No.1 filed a Writ Petition on 23.04.2007 i.e., after a period of one year from the date of cancellation of the allotment executed in her favour. The learned Single Judge by an order dated 25.09.2012 quashed the order of cancellation of allotment dated 24.06.2006 and directed the Board to complete the formalities for execution of the agreement and to handover the possession of the subject house to respondent No.1.

8. The aforesaid order is challenged in this appeal.

9. Learned Senior Counsel for the appellants submitted that prior to the filing of the Writ Petition, an auction was held on 22.08.2006 in which respondent No.3 in this appeal was

declared to be a successful bidder and subsequently, an order of allotment has been issued in favour of respondent No.3 on 02.03.2007. It is further submitted that neither the notification dated 04.08.2006 nor the order of allotment executed in favour of respondent No.3 was challenged in the Writ Petition. Therefore, no relief could have been granted to respondent No.1.

10. Learned counsel for respondent No.3 has supported the submissions made by the learned Senior Counsel for the appellants.

11. We have considered the submissions made on both sides and have perused the record.

12. Admittedly, after cancellation of the allotment made in favour of respondent No.1, an auction was held on 22.08.2006 in which respondent No.3 was declared to be the highest bidder. Thereupon, by an order dated 02.03.2007 allotment of the subject house was made in favour of respondent No.3. Neither the aforesaid auction nor the allotment dated 02.03.2007 was challenged by respondent No.1 in the Writ Petition which was filed subsequently on 23.04.2007.

Therefore, in the absence of challenge to the auction notification and the subsequent allotment in favour of respondent No.3, no relief in favour of respondent No.1 could have been granted in the Writ Petition.

13. For the aforementioned reasons, the order dated 25.09.2012 passed by the learned Single Judge in Writ Petition No.8825 of 2007 is set aside.

14. In the result, the Writ Appeal is allowed.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

SD/- K. SRINIVASA RAO
JOINT REGISTRAR

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SV
SECTION OFFICER

To,

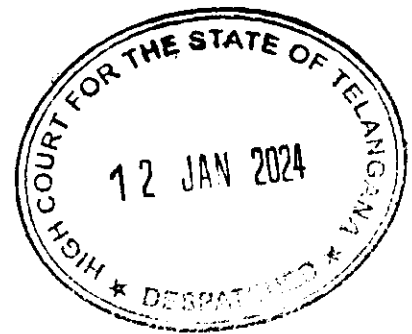
1. The Vice Chairman and Housing Commissioner, Andhra Pradesh Housing Board, Gruhakalpa, M.J.Road, Hyderabad
2. The Executive Engineer (Hg), Western Division, AP Housing Board, Hyderabad
3. The Secretary, Housing Department, State of Telangana, Telangana Secretariat, Hyderabad.
4. One CC to Sri J Prabhakar Advocate [OPUC]
5. One CC to Sri P Sri Ram Advocate [OPUC]
6. One CC to Smt. K Swarna Seshu Advocate [OPUC]
7. Two CCs to GP For Housing, High Court for the State of Telangana. [OUT]
8. Two CD Copies

MBC



HIGH COURT

DATED: 02/01/2024



ORDER

WA.No.103 of 2013

11
MA
11/1/24

ALLOWING THE WRIT APPEAL

WITHOUT COSTS