



W.P.No.13128 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.13128 of 2024

D.B.R.Prabhu

.. Petitioner

Versus

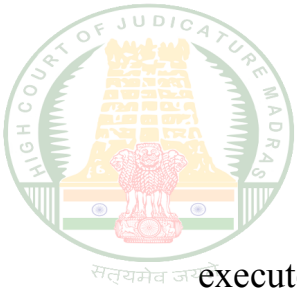
1. Tamil Nadu Housing Board,
Besant Nagar Division,
Dr.Muthulakshmi Salai,
Adyar, Chennai - 600 020.

2. Executive Engineer and Administrative Officer,
Besant Nagar Division,
Tamilnadu Housing Board, Adyar,
Chennai - 600 020.

3. Manager, Marketing & Services,
Besant Nagar Division,
Tamilnadu Housing Board, Adyar,
Chennai - 600 020.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
pleased to issue a Writ of Mandamus, directing the respondents herein to



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execute and register the sale deed with respect to the apartment bearing No.M39, 7th floor, 60, MIG TNHB Flats, Indira Nagar, Adyar, Chennai - 600 020.

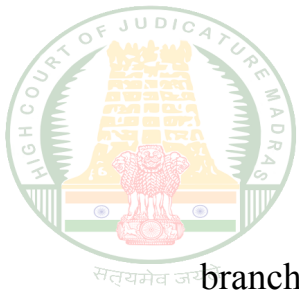
For Petitioner : Mr.D.S.Rajasekar,
for Mr.K.Sivasubramanian

For Respondents : Mr.D.Veerasekaran,
Standing Counsel

ORDER

This Writ Petition is filed for a mandamus directing the respondents to execute and register the sale deed in respect of the Apartment bearing No.M39, 7th floor, 60, MIG TNHB flats, Indira Nagar, Adyar, Chennai - 600 020.

2. The case of the petitioner is that the petitioner was allotted above flat and thereafter, with no objection from the respondent board, the petitioner availed bank loan from the Indian Bank, Gandhi Nagar, Adyar

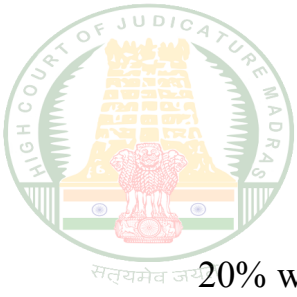


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branch. From thereon, the said bank has been releasing the amounts as per the stage of construction and the bank had released a sum of Rs.35,06,400/- as on 16.12.2017 considering the stage of construction and thereafter, the final installment was released on 05.10.2019 and the possession was also handed over on 26.11.2019. However, the respondents have not executed the sale deed and hence the Writ Petition.

3. The Writ Petition is resisted by the second respondent board. The transaction is admitted. However, it is stated that in the allotment letter itself, while 10% was paid upfront, the schedule for balance payment is categorically mentioned. The same is there in the advertisement inviting the application itself. That does not relate to the stage of construction and they have to pay the appropriate percentage of costs on the relevant dates. Accordingly, while the petitioner made the first two payments i.e., the initial upfront payment of 10% within the due dates, thereafter, the next 20% of the cost was paid with a delay of more than 40 days. The second transaction of

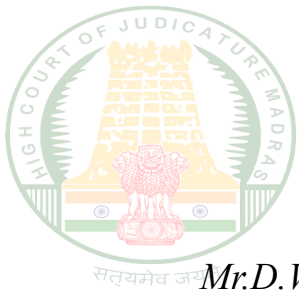


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20% was paid with a delay of three days. Thereafter, the further 10% of the cost, that had to be paid on 30.11.2016, the further 10% on 28.02.2017, the further 10% on 31.05.2017, the further 50% on 31.08.2017 were all not paid and when the further 5% became due on 30.11.2017, in all amounting to 40%, the entire amount was paid in one lumpsum only on 16.12.2017, amounting to Rs.35,06,400/-. Therefore, the same was made with a delay. The final 10% amount was also to be paid at the rate of 5% each on 28.02.2018 and 31.05.2018. However, it was belatedly paid in one lumpsum on 05.10.2019. Therefore, the interest, at the applicable rate, has to be paid for the belated payment. Therefore, as per the calculation that is made, as on 13.05.2024, the petitioner has to pay another balance outstanding of Rs.5,17,332/- with subsequent interest. If the petitioner pays the entire interest amount, which is upto the interest till date, the first respondent board will immediately execute the sale deed.

4. Heard *Mr.D.S.Rajasekar*, learned Counsel for the petitioner and



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Mr.D.Veerasekaran, learned Standing Counsel for the respondent board, who reiterated the respective contentions.

5. I have considered the same and perused the material records of the case.

6. It is essential to quote the relevant payment schedule as per the advertisement which reads as follows:-

"Balance 90% payment to be remitted as detailed below:

- 1) 20% of cost of the flat, on commencement of work.
- 2) 20% of cost of the flat with in next 3 months.
- 3) 10% of cost of the flat with in next 3 months.
- 4) 10% of cost of the flat with in next 3 months.
- 5) 10% of cost of the flat with in next 3 months.
- 6) 5% of cost of the flat with in next 3 months.
- 7) 5% of cost of the flat with in next 3 months.
- 8) 5% of cost of the flat with in next 3 months.
- 9) 5% of cost of the flat will be collected at the time of handing over."

Therefore, it is true that the payment of the installments was not made depending upon the stage of construction. Therefore, the agreement that is made by the petitioner, along with his bank, or the norms of the bank will



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not bind the respondent board and they will bound by the advertisement.

7. As a matter of fact, the payments that are made with the amount due and the delayed time etc., are all tabulated by the respondent board in paragraph No.4 of the counter-affidavit and the tabular column is extracted hereunder:-

S.No.	Payment to be made as per schedule mentioned in Regular allotment order	Scheduled Date for payment	Amount (Rs)	Payment made by the Petitioner	
				Date	Amount (Rs.)
1	5% of cost of flat along with application	29.01.2016	452,000	29.01.2016	452,000
2	5% of cost of flat within 21 days	18.03.2016	452,000	18.03.2016	452,000
3	20% of cost of the flat	31.05.2016	1,753,200	11.07.2016	1,753,200
4	20% of cost of the flat	31.08.2016	1,753,200	03.09.2016	1,753,200
5	10% of cost of the flat	30.11.2016	876,600	16.12.2017	35,06,400
6	10% of cost of the flat	28.02.2017	876,600		
7	10% of cost of the flat	31.05.2017	876,600		



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8	5% of cost of the flat	31.08.2017	438,300		
9	5% of cost of the flat	30.11.2017	438,300		
10	5% of cost of the flat	28.02.2018	438,300	05.10.2019	849,200
11	5% of cost of the flat	31.05.2018	438,300		
	Total				8,766,000

8. It can be seen that there is no quarrel with reference to the first 10%. Even the column Nos.3 and 4 of 20% are also with very meagre delays. The issue starts with the payment of balance 50% only. It is seen that the bank has released the 40% amount in one lumpsum on 16.12.2017 which is claimed to be a delay by the respondent housing board. Similarly, the final 10% amount was also liable to be paid on 31.05.2017 which was paid only on 05.10.2019. But, at the same time, it can be seen that when the petitioner is expected to adhere with the schedule of payments as detailed above, the fact remains that the flat was also not ready as per the original schedule time.



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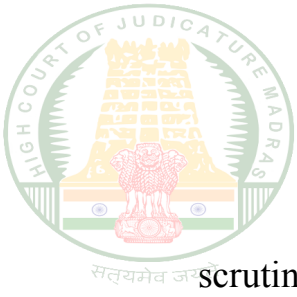
9. As a matter of fact, this Court specifically directed the respondent board to file an additional affidavit containing the details and paragraph No.7 of the additional affidavit reads as follows:-

"7. I respectfully submit that there was a delay occurred for handing over the flat to the allottees due to delay in getting E.B. Connection to the above said scheme. Though the scheme was completed in all respect on 24.2.2018, the E.B connection for the above scheme is effected from June 2019. Hence, the Completion Certificate of the above said scheme was received from the CMDA only on 14.08.2019 and the flats are made ready for occupation to the allottees from 16.10.2019."

Thus, it can be seen that when the original payment of 90% was due as on 30.11.2017, the construction was completed only on 24.02.2018.

10. When the 100% payment is due on 31.05.2018, the housing board could get the completion certificate and the electricity connection was also obtained only on 14.08.2019 and it is expressly mentioned that the flats were made ready for occupation only on 16.10.2019. In the meanwhile, the entire

100% payment was made on 05.10.2019. In view thereof, on a closer

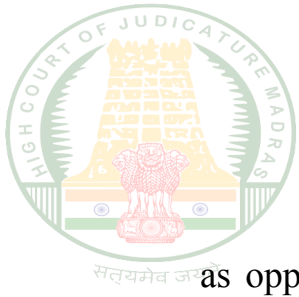


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scrutiny of the peculiar facts and circumstances of this case, the tabular column and the original dates, on which the amounts were due and the original dates of payment, I am of the view that when there is delay also on the part of the housing board in making the construction ready and making the flat ready for occupation, they cannot find fault with the petitioner on the payments of installments in between.

11. I have also considered the delay which is very marginal in nature. As a matter of fact, in a similar circumstance, considering the minor delays and under identical circumstances, this Court, in ***M.S.Kamarunissa Begum Vs. State of Tamil Nadu and Ors.*** in W.P.No.3575 of 2021 vide order, dated 05.04.2024, directed the housing board to execute the sale deed. Therefore, considering the peculiar facts and circumstances of the case, when the bank is paying the amount after considering the stage of the construction and when there is delay also on the part of the housing board in completing the construction and making the flat ready for occupation only in the year 2019



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as opposed to 31.05.2018 which is the last date of payment and when the entire payment is released by the bank as on 05.10.2019, much before the date i.e., on 16.10.2019, on which the amount became due, I am of the view that the demand of interest by the respondent board cannot be justified.

12. In view thereof, when the petitioner has paid the entire sale consideration, this Writ Petition is disposed of by directing the third respondent to execute the sale deed. The said exercise shall be completed within a period of eight weeks from the date of receipt/production of a web-copy of this order without waiting for a certificate copy of this order. There shall be no order as to costs.

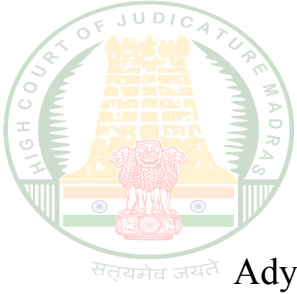
17.03.2025

Neutral Citation : no
grs

To

1. Tamil Nadu Housing Board,
Besant Nagar Division,
Dr.Muthulakshmi Salai,

<https://www.mhc.tn.gov.in/judis>



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2. The Executive Engineer and Administrative Officer,
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D.BHARATHA CHAKRAVARTHY, J.

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