IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.12.2025

C O R A M

THE HONOURABLE MR.JUSTICE **N. SATHISH KUMAR**

W.P.No.24311 of 2025
&
W.M.P.No.27369 of 2025

D.Hamsa Sundaramoorthy ..Petitioner

Vs.

1. The Managing Director
Tamil Nadu Housing Board
CMDA Complex, E & C Market Road
Koyambedu, Chennai – 600 107

2. The Executive Engineer
Tamil Nadu Housing Board
Executive Engineer and Administrative Officer
Anna Nagar Division
Sales and Office Complex
Thirumangalam, Chennai – 600 101 … Respondents

Writ Petition filed under Article 226 of Constitution of India for issuance of writ of certiorarified mandamus to quash the letter dated 29.04.2024 bearing referee No.A.NA.KO.07/952/2022 so far as the maintenance issued by the second respondent and direct the second respondent not to demand or collect any maintenance charges from the petitioner until the registered sale deed is executed, possession is handed over and such charges are computed strictly on a pro rata basis as per the Tamil Nadu Apartment Ownership Act, 2022 and Applicable Rules.

For Petitioners ... Mr.K.Suresh Kumar

For Respondents ... Mr.D.Veerasekaran
Standing counsel for R1 and R2

O R D E R

The petitioner challenges the letter of the second respondent dated 29.04.2024 claiming GST, Corpus fund and maintenance from the petitioner.

2. The case of the writ petitioner is that though he has paid entire sale consideration for purchase of a flat, registration has not been effected in his favour and as far as the GST is concerned, the same is subject matter of writ appeal in W.A.Nos.3124 of 2025 etc., batch and the petitioner is one of the parties in the batch of cases. In the aforesaid order, the Division Bench followed the earlier order passed in W.A.No.2565 of 2025 and the relevant

portion of the order passed in the said writ appeal is as follows:

> *" 4. In order to balance the convenience of both parties, as an interim arrangement, the following orders are passed: (i) that the Tamil Nadu Housing Board shall execute sale deeds for the remaining writ petitioners / respondents if they are otherwise eligible to get the sale deeds registered in their favour without demanding 5% additional GST. (ii) It is made clear that, ultimately if the Tamil Nadu Housing Board succeeds in the batch of intra Court appeals, whatever the decision to be made by the Court, the parties shall abide by that and in that case, if any decision is taken in favour of Tamil Nadu Housing Board that their demand of additional GST to the extent of maximum 5% is to be collected, the allottees who are going to get the sale deeds executed by virtue of this order shall without any hesitation to make the payment. Only on that condition, the sale deed as directed above shall be executed by the Tamil Nadu Housing Board. Insofar as the direction given in paragraph No.22(ii) for refunding of extra 5% collected from some of the writ petitioners who have already paid 5% additional GST is concerned, that direction alone is hereby stayed. This order shall confine only to the writ petitioners whose cases are covered under the impugned order dated 02.06.2025."*

3. It is the further case of the petitioner that without even executing

the sale deed, the respondents are claiming maintenance charges every month from the date of construction of the flat. Hence, the petitioner seeks for a direction not to demand or collect maintenance charges from the petitioner till the sale deed is executed and the possession is handed over to him.

4. The second respondent has filed a counter affidavit. The learned Standing counsel adverting to the counter affidavit submits that the Agreement for Sale of House Flat under Self-Finance Scheme contains 23 clauses. The relevant clauses to the case on hand are Clauses 14 and 21 to 23 which reads a follows:

> *"14.The purchaser will pay to the vendor on demand management charges, insurance and other outgoings payable in respect of the property to the Government, State or Central respective corporation and any other Local or other Authority, due and payable up to the date of registration of sale deed, as fixed by the Vendor and the registration charges, the stamp duty ad other incidental charges shall be borne by the purchaser.*
>
> *21. In all matters of doubt connecting and in respect of this*

indenture the decisions of the vendor shall be final and binding on the purchaser. Any cost incurred by the vendor the Tamil Nadu Housing Board with regard to the construction of this agreement or any litigation or correspondence over the same shall be paid by the purchaser seeking the construction on proceeding in litigation or carrying on correspondence.

22. The purchaser shall be bound by the terms and conditions contemplated in the application form and the rules and regulations prescribed in the prospects of this scheme which will form part and parcel of this indenture. Further the purchaser shall also be bound by the directions being given by the vendor from time in the interest of the upkeep of the buildings and general management.

23. It is expressly agreed between the parties herein that the terms and conditions expressed or implied in this agreement will be binding on the purchaser until the sale deed is executed by the vendor in favour of the purchaser."

5. The learned Standing counsel further submitted that out of 72 flats, 40 flat owners have already obtained the sale deed while 24 allottees taken over the flats after submitting the affidavit that they will pay GST and 64 allottees are currently residing in the flats. Therefore, it is necessary to maintain the flats and the maintenance charges are collected by the

respondent from all 72 flat owners including the petitioner and only with the maintenance charges, charges for cleaning common area, electricity for lights and lifts, salary for the watchman etc., are being paid. It is his further contention that even if the petitioner has not taken over the possession of the flat, still the petitioner has to pay her share of maintenance since it is the common area.

6. At the outset, this Court is of the view that though the petitioner has paid the entire sale consideration, except GST, which is the subject matter of issue in the writ appeal referred to above, wherein this Court has directed registration of sale deed without insisting on 5% of GST, the respondent has not come forward to execute the sale deed. When the transfer is not effected in favour of the petitioner and petitioner is not in occupation of the flat, asking the petitioner to pay the maintenance charges, in the considered view of this Court, is not proper. It is for the respondent Housing Board to maintain it and only when the petitioner occupies the flat or become a registered owner, respondent can insist the maintenance charges. Having

received the entire sale consideration and failed to execute the document, still the respondent cannot insist for maintenance charges without effecting the transfer in the name of the petitioner or handing over the possession.

7. In such view of the matter, as far as claiming maintenance is concerned, the order of the respondent is set aside. It is made clear that only either from the date of registration or from the date of taking possession of the property, the petitioner is liable to pay maintenance. As far as the corpus fund is concerned, once the flat is handed over to the petitioner, let the petitioner pay the corpus to the Association. The respondent Housing Board is directed to execute the sale deed in favour of the petitioner without insisting on GST as directed by the Division Bench vide order dated 24.11.2025 in W.A.Nos.3124 of 2025 etc., batch as the petitioner is one of the parties in the above writ appeal.

The writ petition is disposed of with the above direction. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

04.12.2025

Index: Yes/No
Internet: Yes
Neutral Citation: Yes
gpa

To

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N. SATHISH KUMAR, J

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