

WP(MD) No.21449 & 21450 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
12.12.2024

PRONOUNCED ON
28.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)Nos.21449 & 21450 of 2017 &
WMP.(MD).Nos.17115 & 17116 of 2017

Rajan ... Petitioner in W.P.(MD).No.21449 of 2017
S.Babu ... Petitioner in W.P.(MD).No.21450 of 2017

VS.

1.State of Tamilnadu,
Rep., by its Secretary to Govt.,
Housing Unit and Urban Development Department,
Fort., St., George,
Chennai – 600 009.

2.The Chairman and Managing Director,
Tamilnadu Housing Board,
Nandanam, Chennai – 600 009.

3.The Executive Engineer and
Administrative Officer,
Tirunelveli Housing Unit,
EB Colony, Sivanthipathi Road,
Tirunelveli.

... Respondents in both W.Ps.,



WP(MD) No.21449 & 21450 of 2017

COMMON PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned demand notice in Letter No.R3/G.O. 104-BC OST/2017-22.09.2017, on the file of the third respondent and quash the same as illegal and consequently direct the third respondent to issue the sale deed by calculating interest on difference in land cost between the original tentative land cost and the final land cost from the date of finalization of land cost Rs.2,49,013/- and to pass such further order.

For Petitioner : Mr.G.Aravinthan in both W.Ps

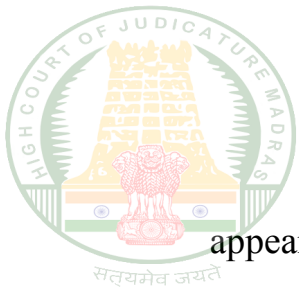
For Respondents : Mr.R.Suresh Kumar AGP for R1

Mr.S.Velmurugan for R3

COMMON ORDER

The challenge in these Writ Petitions is to the demand made by the third respondent calling upon the petitioner to pay a sum of Rs.2,63,547/- which included the interest in principal, difference in land cost and interest thereon.

2. Heard Mr.G.Aravinthan, learned counsel appearing for the petitioner, Mr.R.Suresh Kumar learned Additional Government Pleader appearing for the first respondents and Mr.S.Velmurugan, learned counsel



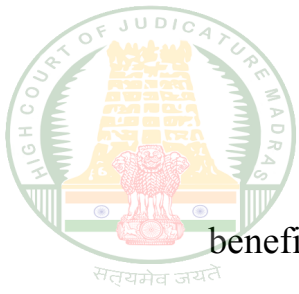
WP(MD) No.21449 & 21450 of 2017

appearing for the third respondent.

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3.The learned counsel for the petitioners would submit that the petitioners were allotted a house in the year 1998 and at that time of allotment, the land cost was fixed tentatively. The said amount had been paid by way of a Department loan sanctioned by the District Collector in favour of the third respondent. Hence, the petitioner cannot be termed as a defaulter in the payment of the said amount. He would further submit that what has been sought to be levied by way of interest is for the entire amount of land cost including the tentative amount that has been already paid by the petitioner through the loan from the Department. Hence, he would submit that there is no justification in demanding interest from it by the allotment order even for the final land cost that has been arrived at by the Department. He would submit that the final land cost has been arrived at in the year 2011 and utmost they would be entitled for the interest for the final land cost minus the amount already paid from the date of fixing the land cost.

4.He would also rely upon the Government order in G.O.(Ms).No. 104, Housing and Urban Welfare dated 15.06.2017 which had given certain

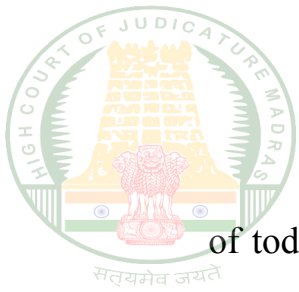


WP(MD) No.21449 & 21450 of 2017

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benefits to the payers of the land cost within a particular period. He would further submit that the Board had also taken a decision to comply with the said Government order. In spite of the Government order and also Board Resolution, the third respondent had made a demand contrary to the policy decision taken by the Government. Hence, he would seek interference of the order passed by the respondents.

5. On the contrary, the learned counsel appearing on behalf of the respondents 2 & 3 would submit that the parlance that is sought to be drawn by the petitioner on the Elis Nagar housing scheme cannot be made available to the petitioners, as the petitioners were allotted the lands way before the Elis Nagar Scheme. He would submit that the Housing Board is entitled to collect the amount paid to the land owners by finalising the cost of the land after completion of the land acquisition proceedings and in the present case, the final cost was fixed in the year 2011 and the petitioners had not made any payment and would submit that even assuming that the petitioner is liable to only pay the interest of the land cost, the land cost that has been arrived during the year 2011, the difference is to be paid by the petitioners for the final land cost was Rs.85,702/- and the unpaid interest as



WP(MD) No.21449 & 21450 of 2017

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of today would amount to Rs.2,48,857/- in respect of the Writ Petitioner in W.P.(MD).No.21449 of 2017 and the land cost of sum of Rs.70,783/- together with the unpaid interest of Rs.2,05,536/- in respect of the Writ Petitioner in W.P.(MD).No.21450 of 2017. He would also submit that since the petitioners had also not paid the payment as per the Government orders, the benefit of the Government orders cannot be extended to the petitioners.

6.I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on record.

7.Admittedly, the petitioners have been allotted the lands and tentative cost has been disbursed to the third respondent from the loan account of the Department granted in favour of the petitioners. Admittedly, the final cost arrived at by the Department for the land allotted to the petitioners was made in the year 2011. After deducting the tentative cost that has been paid by the petitioners, the balance amount is liable to be paid by the petitioners to the third respondents. There has been a delay on the part of the petitioners in making the payment. A demand had been made by



WP(MD) No.21449 & 21450 of 2017

the respondent in respect of both the petitioners in the year 2017.

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8.A reading of the said demand would indicate that the interest on the principal of the tentative cost and interest for a sum of Rs.1,13,227/- had been calculated. The interest component had been calculated taking the interest for five months a year. The working sheet does not indicate whether the interest calculated was on the total land cost or the difference in the land cost. The calculation sheet that has been produced by the respondents during the course of the hearing would show that the interest had been sought to be levied on the difference in the land cost from the date of allotment that is in 1998 till December 2024. It had been clearly held that the petitioners cannot be held to make the payment of interest on the difference in land cost from the date of allotment, as the same had been only arrived at by the respondent at a later point of time, in the present case, in the year 2011. Therefore, I am of the view that the petitioners are not liable to pay the interest on the difference in the land cost from the year 1998, but they are only liable to pay interest from the year 2011.



WP(MD) No.21449 & 21450 of 2017

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9. In such view of the matter, the impugned demands are set aside and the third respondent is directed to workout the interest as envisaged under the G.O(MS).No.104, dated 15.06.2017 from the date of fixing the final land cost i.e., on 19.01.2011 and issue a proper demand notice. As and when such demand is made by the third respondent, if the petitioners have an objection, they shall submit their objections and thereafter, the second respondent shall consider the demand made by the third respondent and the objections, if any, submitted by the petitioners, pass orders on merits and in accordance with the law.

10. With the aforesaid direction, this Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

28.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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WP(MD) No.21449 & 21450 of 2017

K.KUMARESH BABU.,J.

Gba

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To

- 1.State of Tamilnadu,
Rep., by its Secretary to Govt.,
Housing Unit and Urban Development Department,
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- 2.The Chairman and Managing Director,
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Nandanam, Chennai – 600 009.
- 3.The Executive Engineer and
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Tirunelveli Housing Unit,
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Tirunelveli.

A Pre-delivery order made in
W.P.(MD)Nos.21449 & 21450 of 2017 &
WMP.(MD).Nos.17115 & 17116 of 2017

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