

(2002) 04 MAD CK 0059

In the Madras High Court

Case No : Writ Petition No's. 13625 to 13649 and 14274 of 2002 and WPMP No's. 13845 to 18419 and 19242 to 19244 of 2002

P. Sabapathy, M. Kamakshi, R. Sivakumar, S. Sivakumar, A. Saraswathy, S. Swaminathan, V.C. Parthiban, V.A. Revathy, E. Rajendran, A.N. Jayaraj, M. Pichaimuthu, M. Meenakshi, G. Alagesan, M. Vasudevan, P. Mohandoss, J. Ranganathan, T. Balasubramanian, P. Jagannathan, S.M. Durairaj, K. Rangaraj, G. Sundaramurthi, V. Krishnamoorthy, C. Deenadayalan, G. Alagarsamy, S. Valsakumar and N. Ganesan

APPELLANT

Vs

The Government of Tamil Nadu and Government Official Allottees' Welfare Association

RESPONDENT

Date of Decision : 25-04-2002

Acts Referred:

Citation : (2002) 04 MAD CK 0059

Hon'ble Judges : E. Padmanabhan, J

Bench : Single Bench

Advocate : M.S. Mani, for the Appellant;

Final Decision : Dismissed

Judgement

E. Padmanabhan, J.—In all the above Writ Petitions, though the petitioner is different, they have sought for the identical relief on the same

basis and on the same set of facts. Hence by a common order these writ petitions are disposed of.

2. It is sufficient to refer to the facts in one of the writ petitions.

W.P.No.13625/2002

3. The petitioner prays for the issue of a writ of mandamus directing the first respondent to waive interest with penal interest beyond six months of

allotment order issued by the second respondent, Tamil Nadu Housing Board payable by the petitioner to the second respondent herein

approximately a sum of Rs.36,000/= or thereabout in respect of the allotment of ready built house/flat, during 1989.

4. The petitioner has no right, much less a fundamental right to compel the respondents to waive interest which is payable in terms of the Housing

Board Regulations and in terms of the allotment proceedings under which the petitioner became the allottee and the relief of mandamus prayed for

is a misconception. It may be that the petitioner might have made representations to the respondents, but it is for the respondents to consider

waiver and not by this court by issue of mandamus as it is not the obligation, nor a statutory Rule or condition to waive interest as claimed.

5. It is not the case of the petitioner that others identically placed were granted waiver and he petitioner has been treated differently, which alone

might have enabled the petitioner to come before this court putting forth the plea of discrimination. This is not the case here. It may be that the

petitioner, a Government Employee or a retired pensioner may deserve sympathetic consideration. But on the ground of sympathy alone a

considerate treatment is not called for and on the facts, no mandamus could be issued. If at all, it is for the respondents/administration to decide the

same with a compassion and consideration.

6. The house/flat in question was constructed by the Tamil Nadu Housing Board for being allotted to various Government Servants on hire

purchase or on outright purchase basis as per the requirements of the individual applicant. In terms of the Scheme, the allottees have to pay an

initial deposit of 1/3rd or 1/4th, as the case may be, being the cost of the house/flat and the balance amount should be paid over a specific period

of years stipulated by the Housing Board and as set out in the allotment proceedings. It is admitted that the allottees have to pay the entire cost of

the house/flat immediately on allotment. It may be that the Housing Board had permitted the allottees for conversion from outright purchase to

installment payment.

7. It is pointed out that on 7.11.1978 the Government issued a G.O, which reads thus:-

government servants, who get allotments of houses/flats under hire purchase scheme of the Tamil Nadu Housing Board and who have not paid

any of to the instalments under the hire purchase scheme except in respect of

the initial payment of the 25% of the cost of the flat/house will also be sanctioned house building advance provided they produce a "No Objection Certificate" from the Tamil Nadu housing Board to convert the hire purchase deal into an outright purchase one".

8. The petitioner who is an allottee had secured allotment, should have made the payments towards initial deposit and should have made

arrangements for the payment of monthly installments soon after allotment and when once flat/house is ready for occupation. Taking advantage of

the fact that the petitioner is/was a Government Servant, he has been making representation for certain relaxation or waiver, though the house has

been made ready and ready for occupation. It may be that the petitioner had applied for a loan to the State Government and there had been some

delay in this respect, but on that score, the petitioner seek to contend that for the delay in payment of initial deposit, no interest shall be demanded.

It should not be forgotten that the Housing Board raised a loan from the World Bank or other organisation and had put up constructions. The

constructions have been raised and ready for occupation. The petitioner having secured allotment ought to have paid the initial deposit within the

period stipulated. But he has delayed under one pretext or other or under the pretext that he is yet to get the loan. The advance of Housing loan by

the Government is just to enable the Government servant to purchase, but that does not mean the Housing Board to waive the interest, even after

the flat or plot having been made ready for allotment.

9. It may be in some cases the individual is eligible for Housing loan and in case of some individual he may not be eligible for grant of loan or it may

be that the Government might have delayed the sanction of the loan for ever so many reasons. But on that score the petitioner cannot compel the

Housing Board to waive the interest since the construction of the building has been completed and it is ready for occupation on the date of

allotment. It is not as if the Housing Board is making a bargain on a profit. But it has built up the construction on a cost basis and if there is delay in

remitting the initial deposit, the petitioner cannot blame any one of the respondents, and the petitioner cannot seek for waiver of interest for such

delay on any account, nor he could compel the respondent to waive interest.

10. Though the petitioner rely upon exchange of correspondence between the

parties, this court is not persuaded to go to the rescue of the petitioner as there is neither a justification, nor there is any equity in favour of the petitioner. This is not a fit case where this court would be justified in issuing a writ of mandamus as prayed for and remedy of writ is not to compel the respondents to waive interest or give its due which has accrued in favour of the respondents. Neither it is just, nor it is equitable to compel the respondents to waive interest. The Housing Board is a statutory body and it cannot be compelled to waive interest. The remedy of writ invoked by the writ petitioner is a misconception and such a writ is not maintainable. Even on merits also, the petitioner is not entitled to the relief of writ of mandamus prayed for.

11. In the circumstances, the above Writ Petitions are dismissed. Consequently, all the connected WPMPs are also dismissed.