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Court : Chennai Madurai

Decided On : Feb-08-2016

Judge : A. Selvam

Appeal No. : W.P(MD)No. 2925 of 2008

Appellant : K. Meena

Respondent : The State of Tamil Nadu rep. by Department of Housing and Urban Development through its Secretary and Another

Judgement :

(Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pursuant to G.O(1D)No.87 Housing and Urban Development (HB5(1) Department dated 08.01.2008 and quash the same.)

1. This Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the order passed by the first respondent in G.O(1D)No.87, Housing and Urban Development [HB-5(1)] Department, dated 08.01.2008 and quash the same.

2. It is averred in the petition that the petitioner is a social server and in recognition of her service Plot No.C2/A in Theni Housing Board Area has been allotted to her

and subsequently the first respondent has cancelled the same by way of passing the impugned Government Order on 08.01.2008, wherein it is stated that the price of the plot has not been fixed. Under the said circumstances, the present writ petition has been filed for getting the relief sought therein.

3. The learned counsel appearing for the petitioner has reiterated the averments made in the petition and further contended that a similar question has been dealt with in the decision in K.V.Krishnan v. The Chairman and Managing Director, Tamil Nadu Housing Board and the Executive Engineer, Administrative Officer, Tirunelveli Housing Unit reported in 2004(1) CTC 178, wherein it is stated that a lease cum sale agreement has been executed and subsequently permitted to secure sale deed for that property on paying cost of the house and thereafter the authority has refused to execute a sale deed, wherein it is held that the act of the authority is not proper and under the said circumstances in the instant case the plot mentioned in the petition has been allotted to the petitioner in recognition of her social service, but the first respondent has simply cancelled the same by way of stating that the price of the plot has not been fixed and therefore the reason assigned by the first respondent is totally erroneous and under the said circumstances the impugned Government Order passed by the first respondent is liable to be quashed.

4. The learned counsel appearing for the second respondent has also equally contended to the effect that similar petitions have been filed on the file of this Court, wherein this Court has held that since the Government has changed its policy subsequently, the impugned Government Order cannot be quashed and further the property in question is nothing, but commercial plot and therefore the impugned Order passed by the first respondent is perfectly correct and the petitioner is not entitled to get the relief sought in the petition.

5. It is an admitted fact that for getting similar relief, W.P(MD)Nos.2454 of 2008, 3686 and 3689 of 2004 have been filed on the file of this Court, wherein also similar factual circumstances have been mentioned. In fact the petitioners therein have been allotted certain plots by the Housing Board on the basis of social service and subsequently for the same reason their allotments have been

cancelled and this Court in all the writ petitions has categorically found that since the Government has changed its policy subsequently, the impugned Government Order is not liable to be quashed.

6. It has already been pointed out that the petitioner has been allotted the plot mentioned in the petition only on the basis of her alleged social service. In the impugned Government Order, it has been specifically mentioned that since price of the plot has not been fixed, the allotment of the petitioner is cancelled. In fact in the earlier writ petitions, it has been clearly mentioned that for the same cause the so-called allotments of the petitioners have been cancelled. Considering the fact that the facts mentioned in the petition are identical to the facts mentioned in the writ petitions mentioned supra and also considering that for the same reason allotment has been cancelled, this Court is of the view that the impugned Order passed by the first respondent is not liable to be quashed and further the facts mentioned in the present writ petition are totally alien to the facts found in the decision in K.V.Krishnan v. The Chairman and Managing Director, Tamil Nadu Housing Board and the Executive Engineer, Administrative Officer, Tirunelveli Housing Unit reported in 2004(1) CTC 178. Therefore, viewing from any angle, the contentions put forth on the side of the petitioner cannot be accepted and altogether the present writ petition deserves to be dismissed.

7. In fine, this Writ Petition is dismissed.

No costs.

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