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Dr. Sameena Begum vs Bangalore Development Authority

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Court : Karnataka

Decided On : Feb-01-2025

Judge : M.G.S. Kamal

Appeal No. : WP/12591/2021

Appellant : Dr. Sameena Begum

Respondent : Bangalore Development Authority

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF FEBRUARY, 2025 BEFORE THE HON'BLE MR JUSTICE M.G.S. KAMAL WRIT PETITION NO. 12591 OF 2021 (BDA) BETWEEN: DR. SAMEENA BEGUM, W/O IMDAD R SHARIEF, AGED ABOUT 44 YEARS, NO.24, 1ST FLOOR, 9TH MAIN, 18TH CROSS, HSR LAYOUT, 7TH SECTOR, BANGALORE-560 102. PETITIONER (BY SRI GIRISH R, ADVOCATE FOR SRI BIPIN HEGDE, ADVOCATE) AND:

1. BANGALORE DEVELOPMENT AUTHORITY, KUMARA PARK WEST, REP. BY THE COMMISSIONER, BANGALORE-560 020. Digitally signed by SUMA B N Location: High Court of 2. DEPUTY SECRETARY, Karnataka BANGALORE DEVELOPMENT AUTHORITY, KUMARA PARK WEST, BANGALORE-560 020. RESPONDENTS (BY SRI SACHIN B S, ADVOCATE FOR R-1 & R-2)

THIS W.P. FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I) DIRECT THE RESPONDENTS TO COMPLY WITH THE ORDER DATED 03.3.2020 PASSED BY THIS HON'BLE COURT IN W.P.NO.10416/2016 II) DIRECT THE RESPONDENTS TO PAY RS.42,59,983/- FOR THE EXTENT OF THE REDUCED SIZE OF THE SITE NO.183/A H.S.R. LAYOUT FROM 15.3.2014 AT THE -2- RATE OF 6 PERCENT PER ANNUM AS PER THE ORDER OF THE HON'BLE HIGH COURT IN W.P.NO.10416/2016. THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER: CORAM: HON'BLE MR JUSTICE M.G.S. KAMAL

ORAL ORDER

Petitioner was a successful bidder of a site bearing No.183/A, measuring North-South 8.5 Sq.Meters and East-West 12.4 Sq. Meters, totally measuring 105.4 Sq.Meters in HSR Sector-3 Layout. Petitioner had paid Rs.1,25,42,600/- inclusive of tax deducted at source. That, after payment of the entire sum, petitioner realised the actual extent of site that was purchased by the petitioner was only 81.84 Sq.Meters and not 105.4 Sq.Meters. As such petitioner raised issue with regard to allotment of an alternative site. Petitioner had even approached this Court by filing Writ Petition in W.P. No.10416/2016. This Court by order dated 03-03-2020 disposed of the said writ petition with an observation at para 5 which reads as under: -3-

"5. In view of these facts and circumstances, BDA is hereby directed to approach the Director of Survey and Settlement Department seeking for appointment of Surveyor to determine what is the actual area is respect of auctioned site No.183/A H.S.R. Layout. Such re-survey shall be conducted within a period of eight weeks from the date of receipt of this order. Such re-survey shall be conducted in the presence of the petitioner or his representative while fixing the date and time. Thereafter, BDA is hereby directed to refund amount depending upon the size of the site No. 183/A H.S.R Layout to the extent of reduced area, if any along with interest at the rate of 6% per annum".

2. It appears, subsequently, measurement of the

site auctioned in favour of the petitioner was made and found the actual area was lesser than what was auctioned. Since the amount paid in respect of the area which was not auctioned was due and payable, the petitioner filed the present petition seeking the following reliefs: " WHEREFORE it is prayed that this Hon'ble Court be pleased to: -4- i) Issue a writ in nature of mandamus directing the

Respondents to comply with the order dt 20.03.2020 passed by this Hon'ble Court in W.P. No.10416/2016; ii) Direct the Respondents to pay Rs.42,59,983/- for the extent of the reduced size of the site No.183/A H.S.R Layout from 15.3.2014 at the rate of 6% per annum as per the order of the Hon'ble High Court in W.P No.10416/2016; iii) To pass such other orders as this Hon'ble court deems fit in the facts and circumstance of the case, in the interests of justice."

3. Order dated 05.07.2022 of this Court reveal

that the respondent-BDA had handed over a demand draft for Rs.44,41,966/- bearing No.573785, drawn on Canara Bank, BDA Complex, Bangalore, dated 20.06.2022. However, upon the submissions made by the counsel for the petitioner, this Court has noted the calculation was made only upto 15.03.2022 and since the demand draft is dated 20.06.2022, the respondent -BDA was required to pay the interest for the period between 15.03.2022 to 20.06.2022.

Today, reiterating the same, learned counsel for the petitioner submits that though admittedly, amount has been paid together with interest as directed by this -5- Court by order dated 03.03.2020 passed in W.P.No.10416/2016, while calculating the interest, respondent-BDA has not paid interest for the period between 15.03.2022 to 20.06.2022. Hence, seeks for a specific direction in this regard.

4. In response, learned counsel appearing for the

respondent-BDA referring to the Memo dated 19.07.2022 filed along with 'Anoupacharika Tippani' dated 14.07.2022 submit that petitioner has been paid interest on the differential amount calculated from 15.03.2014 upto 16.06.2022 and demand draft dated 20.06.2022 as noted has already been handed over. Therefore he submits that there is no delay or mis-calculation on the part of respondent-BDA. He further submits, however, due to inadvertence, the calculation of the interest for the period from 15.03.2014 to 16.06.2022 was not brought to the notice of this Court and it was subsequently brought to the notice by way of aforesaid Memo. The Memo of calculation is not disputed by the petitioner. -6-

5. Since the only grievance of the petitioner is that

interest amount has not been calculated for the period between 15.03.2014 to 20.06.2022 and in view of the Memo dated 19.07.2022 along with 'Anoupacharika Tippani' enclosed therewith which manifestly indicate that the petitioner has been paid interest calculated at 6% p.a. from 15.03.2014 to 16.06.2022, by way of Demand Draft dated 20.06.2022 this Court do not see any reason to entertain the writ petition. Accordingly, the petition is dismissed. SD/- (M.G.S. KAMAL) JUDGE tsn* List No.: 1 Sl No.: 24

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