

Sarankumar Vs. Secretary, Greater CochIn Development

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Court : Kerala

Decided On : Nov-23-2010

Judge : Antony Dominic, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P.(C) NO. 34299 OF 2010

Appellant : Sarankumar

Respondent : Secretary, Greater CochIn Development

Advocate for Def. : SRI.M.K.THANKAPPAN, Adv.

Advocate for Pet/Ap. : SRI.V.S.CHANDRASEKHARAN, Adv.

Judgement :

ANTONY DOMINIC, J.

W.P.(C) NO. 34299 OF 2010

Dated this the 23rd day of November, 2010

JUDGMENT

1. Ext.P1 is the allotment order issued by the GCDA allotting a HIG flat to the petitioner for a total sale consideration of Rs.4,20,425. It is stated that initially an amount of Rs.2 lakhs was paid and the balance was repayable in 168 instalments

with interest at 13.5%. Though the petitioner submits that repayments were made, he also admits that default was later committed. Finally, he was issued Ext.P3 notice calling upon him to remit an amount of Rs.5,29,051. He requested for waiver of penal interest and thereupon was issued Ext.P5 notice requiring him to remit an amount of Rs.6,61,537. At that stage, by filing Ext.P6, the petitioner has asked for a statement of account. It is stated that he was issued Ext.P7 notice stating that the dues remaining outstanding was Rs.6,66,486. Correspondences were exchanged between the parties and finally he was issued Ext.P9 eviction notice. This led to the filing of WP(C) No.31078/2004 and that writ petition was disposed of by Ext.P10 judgment leaving it open to the petitioner to approach the 1st respondent for final orders on the representation that was made. He was also given liberty to file a fresh representation in the matter. Petitioner states that accordingly representation was filed and though he was issued Ext.P11 notice calling him for a personal hearing on 10/3/2010 that was deferred. It is stated that he was again issued Ext.P12, fixing hearing on 27/3/2010, but however petitioner submits that nothing further took place. It is his case that despite the above, in violation of the directions in Ext.P10 judgment, he was issued Ext.P13 notice stating that the dues payable was Rs.7,50,689, and that, to avoid eviction, the amount should be paid on or before 10/10/2010. It is thereupon that this writ petition has been filed contending that there is violation of the directions in the judgment and that the quantification done is incorrect and against the provisions of the agreement. It is also stated that no statement of account has been furnished.

2. Counsel for the respondents contends that pursuant to the direction in the judgment, Ext.P12 notice was issued and the petitioner was heard on 27/3/10. It is also his case that statement of account was also duly furnished to the petitioner. Respondents also deny the allegation of the petitioner that calculations as reflected in Ext.P13 is wrong and states that it is fully in compliance with the terms of the agreement.

3. Essentially therefore, the issue raised is about the actual amount that is due to the petitioner. In my view, this is not an exercise which can be undertaken in a proceedings under Article 226 of the [Constitution of India](#).

4. It is also required to be stated in this writ petition that even going by the pleadings in the writ petition, petitioner has not made even a single payment after 2004. Therefore, as at present, the fact that liability is due to the respondents cannot be disputed.

5. As already said, accuracy of the calculation is a matter for the petitioner to get agitated before competent forum and not before this Court.

6. Writ petition fails and is dismissed.

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