

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 12-03-2015

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.31446 of 2014

and

M.P.No.1 of 2014

1 N.Loganathan
S/o.Natarajan HIG-A-107
TNHB Colony Nehru
Nagar Kalapatti
Coimbatore 641 014 ... Petitioners

Vs

1 The Managing Director
Tamilnadu Housing Board 493 Anna Salai m
Nandanam Chennai-35

2 The Executive Engineer and
administrative Officer Coimbatore Housing
Unit HUDCO Colony Tatabad Coimbatore 641 012

3 The Assistant Revenue Officer
Coimbatore Housing Unit HUDCO Colony
Tatabad Coimbatore 641 012

4 The Inspector of Police
B-6 Police Station Peelamedu Coimbatore

Respondents

...

Petition filed under Article 226 of the Constitution of India praying for issue of writ of Certiorari calling for the records of the 2nd respondent by proceedings in A-17/761/2002 dated 24.12.2013 and the consequential order of the 3rd respondent by proceedings in A-6/761/ 2002 dated 18.11.2014 and quash the same.

For petitioner :: Mr. P.Saravana Sowmiyan

For respondents:: Mr. V.Anandamurthy for RR1 to 3
:: M/s.P.Rajalakshmi,
Govt. Advocate for R-4

ORDER

The petitioner has filed this writ petition challenging the order dated 24-12-2013 by which the petitioner was directed to handover vacant possession of the property allotted by the respondent-Housing Board, pursuant to the order of allotment dated 08-11-2002.

2. The petitioner is said to have been in possession of the property said to have been allotted to him from 08-11-2002 onwards and the allegation is that except paying an initial amount of Rs.1,08,000/- (Rupees One lakh and eight thousand only) and Rs.10,402/- (Rupees Ten thousand four hundred and two only) towards the premium for the first month as directed in the allotment order, no further payment was made by the petitioner. Therefore, the petitioner is deemed to be an encroacher of the property. Accordingly, action was initiated under Section 84(1)(b) of the Tamil Nadu Housing Board Act, 1961 and the impugned order dated 18-11-2014 was passed directing eviction of the property. The petitioner would contend that he was unable to obtain loan from the Central Bank of India and initially, he had obtained A and B Certificates from the respondent-Board. Subsequently, he has approached the Central Bank of India and has obtained a No Objection Certificate on 24-01-2014. Therefore, the petitioner would state that without considering these facts, the respondent-Board is attempting to throw him away from the property with the help of the Police. Therefore, the petitioner has approached this Court, challenging the notice dated 24-12-2013.

3. The learned counsel for the respondent-Board would submit that the petitioner is a chronic defaulter and the instruments of A and B Certificate having been granted initially, the petitioner has not availed the loan from the Bank. Subsequently, he sought for one more A and B Certificate and further, the petitioner had sold the property to a third party, lodged a Police complaint against the respondents and the respondents had also appeared before the Police Officials.

4. A perusal of the impugned order would show that the only ground stated in the impugned order is that the petitioner is a defaulter and he has not paid the amount payable towards the property and the allegation against the petitioner is that he has sold the property to a third party.

5. In the light of the above, since the petitioner is entitled to have an opportunity of hearing, while setting aside the impugned order, the respondent-Board is directed to issue a fresh notice, mentioning all the grounds, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said notice, the petitioner shall submit his reply within a period of two weeks, thereafter and after considering the reply, the respondent shall pass fresh orders on merits and in accordance with law, within a period of ten days, thereafter. Till the order is passed in terms of the above direction, the status quo prevailing as on date shall be maintained.

6. The writ petition is disposed of, accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

glp

To

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 - 3 The Assistant Revenue Officer
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Tatabad Coimbatore 641 012
 - 4 The Inspector of Police
B-6 Police Station Peelamedu Coimbatore
- + 1 cc to M/s. V. Anandhamurthy, Advocate SR.14227
- + 1 cc Government Pleader Sr.14185

MP(CO)
EU 07.04.2015

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