

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.38241 of 2016
and
W.M.P.No.32789 of 2016

S.Dharani Dharan

.. Petitioner

- Vs -

1. Executive Engineer &
Administrative Officer,
CIT Rehabilitation Scheme,
Nandanam, Chennai - 600 035.

2. Chief Revenue Officer,
Tamilnadu Housing Board,
Nandanam, Chennai - 35.

3. Under Secretary / Revenue,
Tamil Nadu Housing Board,
Nandanam, Chennai - 35.

.. Respondents

Prayer:- Writ petition filed under Section 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in impugned order No.CITA.1/1100/16 dated 24.10.2016 and quash the same.

For Petitioner : Mr.M.Krishnamurthy

For Respondent 1 : Mr.P.Senthilvel
Government Advocate

For Respondents 2 & 3 : Mr.V.Anandamoorthy

O R D E R

The writ petition has been filed challenging the order of the 1st respondent dated 24.10.2016, directing the petitioner to vacate and handover vacant possession of the Shop at No.1, Nandanam Extension, Chennai - 600 035.

2. The petitioner claims that the shop was originally allotted to his father and after the demise of his father in the year 2000, he continued the business of his father in the said shop. Now suddenly, he has been directed to vacate and hand over vacant possession by the respondents. Aggrieved over the same, he filed the present writ petition.

3. The learned counsel for the respondents would contend that even in the year 2011, the petitioner was directed to vacate and hand over vacant possession but he did not hand over vacant possession. Thereafter, the petitioner only requested that in the event of the demolition being done as proposed and new structure being put up he only seeks new allotment in the same area or any other area to carry on his business. In a similar matter, the Division Bench of this Court in W.A.No.1722 of 2012 has held that the grant of subsequent lease after the demise of the original allottee is not automatic.

4. The learned counsel for the respondents would further contend that there was a direction issued by the Managing Director of the Tamil Nadu Housing Board in proceedings dated 21.10.2016 that they would not normally transfer the name on the demise of a person. Therefore, he would contend that the writ petition as such is liable to be dismissed.

5. Heard both the parties.

6. As rightly put by the respondents, the transfer in the name after the demise of the original allottee is not as a matter of course. The Division Bench of this Court has held in W.A.No.1722 of 2012 in paragraph Nos.12 and 13 as follows:

"12. The Board had already admittedly taken a decision in 1997 not to transfer allotments in favour of the legal heirs. The said resolution was not under challenge. As a matter of fact, the decision of the Housing Board came up for consideration before a Division Bench of this Court in W.A.No.1443 of 2008 in K.Saraswathi Vs. State of Tamilnadu. By a judgment dated 16.6.2010, the Division Bench held that the decision of the Housing Board not to transfer the allotments under the public rental category was with a specific purpose. It was a decision taken in larger public interest. Paragraph 13 may be usefully quoted as follows :

"The decision taken by the Housing Board not to transfer the allotment under the public rental category

was with a specific purpose. It was a decision taken in larger public interest. There are many people in the queue, claiming such allotment. It is only when the houses are vacated, the Housing Board would be in a position to consider their request for allotment. In case existing allotments are transferred from the name of original allottee to the legal heirs and thereafter, to the next generation, the property would continue to be in the hands of chosen few and others would be denied of such accommodation. Therefore, an element of social objective was behind the decision taken by the Board not to permit transfers to the legal heirs. We do not find any illegality in the said policy decision warranting our interference. The application submitted by the appellant was rejected on valid reasons, in the light of the prevailing policy of the Board. The matter was considered once again by the Government and the plea was again rejected. The issue was reexamined by the learned Single Judge and arrived at a correct conclusion that the order does not warrant interference. We do not find any justifiable reason to take a different view in the matter."

13. Therefore, we find no merit in the writ appeal. Accordingly, the writ appeal is dismissed. No costs. Consequently, the above MPs are also dismissed."

7. Further the father died in the year 2000. Even in the year 2011, a notice has been issued for eviction. Till such time also, the petitioner did not take any steps for transferring the name. Thereafter, after 5 years he continued to use the shop. Even otherwise, the respondents are only going to demolish and reconstruct it. It is always open for the petitioner, as requested by him in the representation, to seek for alternative accommodation. If any such representation is being made, the authorities will consider the same in accordance

with law and they may give preference to the petitioner. The writ petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. Executive Engineer &
Administrative Officer,
CIT Rehabilitation Scheme,
Nandanam, Chennai - 600 035.
2. Chief Revenue Officer,
Tamilnadu Housing Board,
Nandanam, Chennai - 35.
3. Under Secretary / Revenue,
Tamil Nadu Housing Board,
Nandanam, Chennai - 35.

+1cc to Mr.M.Krishnamurthy, Advocate, S.R.No.63623
+1cc to Mr.V.Anandhamoorthy, Advocate, S.R.No.63742
+1cc to the Government Pleader, S.R.No.63935

RP(CO)
BB(29/12/2016)

W.P.No.No.38241 of 2016
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