

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.43389/2016 & W.M.P.Nos.37248 and 37249 of 2016

1.M.Ramalingam

2.R.Elumalai

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Petitioners

Vs.

1.The Commissioner of Police,  
Greater Chennai, Vepery, Chennai - 600 007.

2.The Additional Commissioner of Police / Head Quarters,  
O/o.The Commissioner of Police,  
Vepery, Chennai - 600 007.

3.The Estate Officer/Additional Deputy Commissioner of Police,  
Estate Welfare and Community Policing,  
Greater Chennai Police,  
Chennai - 7.

..

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, call for the records relating to the proceedings made in Na.Ka.No.Building 2(2)/176/21900/2013, dated 25.11.2016 passed by the 2nd respondent and quash the same and consequently direct the respondents to transfer the allotment in respect of the house No.1, A.Block, F2 Police Quarters, Egmore, Chennai - 600 008, in the name of 2nd petitioner herein.

For Petitioner : Mr.G.Mohanakrishnan

For Respondents : Mr.K.Dhananjayan,Spl.GP

ORDER

By consent, the writ petition is taken up for final disposal. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

**2** The 1<sup>st</sup> petitioner retired from service as Special Sub Inspector of Police and during the period of service, he was allotted a Quarters bearing No.1, A-Block, F2 Police Quarters, Egmore, Chennai - 600 008, and he retired from service on 31.05.2013. The son of the 1<sup>st</sup> petitioner, viz., the 2<sup>nd</sup> petitioner herein, was also employed as Grade-II Constable in the Tamil Nadu Special Police Battalion-III and subsequently, he was transferred to Chennai City Police Motor Transport Department on 03.10.2016.

**3** The 1<sup>st</sup> petitioner has submitted a representation dated 02.09.2013 to the 1<sup>st</sup> respondent, stating among other things, that he is yet to find a suitable alternate accommodation and he as well as his wife are unwell and therefore, prayed for six more months time to vacate and hand over the possession of the premises. The 1<sup>st</sup> respondent, in response to the same, sent a communication dated

18.02.2014, calling upon the 1<sup>st</sup> petitioner to vacate and deliver the possession of the premises within seven days from the date of receipt of the said notice and also followed by another communication dated 20.12.2014. Since the 1<sup>st</sup> petitioner did not vacate and deliver the possession of the premises, the Estate Officer / 3<sup>rd</sup> respondent herein, by invoking the provisions of the Tamil Nadu Public Premises [Eviction of Unauthorised Occupants] Act and the Rules framed thereunder, had issued notice under Rule 3 of the said Act, to show cause as to why the order of eviction should not be made under sub-section [1] of section [4] of the above said Act.

**4** The 1<sup>st</sup> petitioner, in response to the notice, submitted his explanation / response on 30.01.2016 stating among other things, that his son / 2<sup>nd</sup> petitioner herein, is working as a Constable in the Tamil Nadu Special Police Battalion, Veerapuram, Chennai, and that he may be allotted, the said Flat and also pleaded personal difficulties. The 1<sup>st</sup> petitioner has also submitted another representation dated 08.10.2016 to the 2<sup>nd</sup> respondent stating among other things, that his son has been transferred to Motor Transport Department and as such, he may be given allotment of the said Flat, in which the 1<sup>st</sup> petitioner is residing. The 2<sup>nd</sup> respondent, in response to

the said representation of the 1<sup>st</sup> petitioner, has sent the Memo / impugned communication dated 25.11.2016 stating among other things, only persons employed in the very same Department can be given such a kind of accommodation and admittedly, the 2<sup>nd</sup> petitioner is employed in Motor Transport Department of the Chennai City Police and since he is not employed in the Commissionerate of Police, his request cannot be considered and also pointed out that the 1<sup>st</sup> petitioner in spite of the expiry of the time, continues to reside in the premises for more than 3 years and hence, he has been called upon to vacate and deliver possession of the premises. Challenging the legality of the same, the petitioners have come forward to file the present writ petition.

**5** The learned counsel for the petitioners would submit that since the son of the 1<sup>st</sup> petitioner, viz., the 2<sup>nd</sup> petitioner herein, has been transferred to the Motor Transport Department of Commissionerate of Police, there cannot be any difficulty on the part of the 2<sup>nd</sup> respondent to transfer the accommodation in favour of the 2<sup>nd</sup> petitioner herein and therefore, prays for quashment of the impugned memo / notice.

**6** Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents would submit that as per the Circular Memorandum issued by the Director General of Police dated 17.05.2004, in RC.No.37529/Bldgs.I[3]/2004-1, it has been clarified that the concession for accommodating the wards of the retiring police personnel, who were/are serving the Department, is applicable to the wards of the retiring police personnel who were already serving and in that Unit at the time of the parent's retirement and admittedly, the 2<sup>nd</sup> petitioner is not serving in the Unit and as such, the request made by the 1<sup>st</sup> petitioner cannot be considered and would further add that since the 1<sup>st</sup> petitioner continues to reside even after the expiry of the period for more than 3 years, action has already been initiated under the provision of the Tamil Nadu Public Premises [Eviction of Unauthorised Occupants] Act and further proceedings will be done in accordance with the said Act and the Rules framed thereunder. The said submission, on instructions, is placed on record.

**7** This Court has considered the rival submissions and also perused the materials placed before it.

**8** It is a well settled position of law that in the absence of any statutory Rule, the Administrative instructions / Government Orders will hold good and as such, the petitioners cannot make any complaint as to the action being initiated by the respondents.

**9** This Court, in the light of the above facts and circumstances, is of the considered view that the writ petition lacks merit and substance and therefore, the same is dismissed. However, it is made clear that the 3<sup>rd</sup> respondent shall proceed further in terms of Form-A Notice dated 28.01.2016 and the 1<sup>st</sup> petitioner is directed to extend maximum cooperation to the 3<sup>rd</sup> respondent for passing early orders in respect of the proceedings initiated under the provisions of the above said Act. No costs. Consequently, the connected miscellaneous petitions are closed.

16.12.2016

Index : No

Internet : Yes

AP

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M.SATHYANARAYANAN, J.,

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