

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.5206 of 2017

Tmt.Punniavathi
W/o (late) Kumarimuthu

.. Petitioner

-vs-

1. State of Tamil Nadu rep.by its
Principal Secretary to Government
Housing and Urban
Development Department
Secretariat, Chennai 600 009

2. The Managing Director
Tamil Nadu Housing Board
No.493, Anna Salai
Nandanam, Chennai 600 035

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the first respondent to dispose of the stay petition filed along with the appeal dated 21.02.2017 preferred by the petitioner against the proceedings of the second respondent in Order No.Va.Va.B.1/20321/2016 dated 25.01.2017 and till such time forbearing the second respondent from evicting the petitioner from the flat bearing No.9E, Tower Block, Nandanam, Chennai.

For Petitioner:: Mr.S.Doraisamy

For Respondents:: Mr.P.V.Selvakumar
Addl.Government Pleader for R1
Mr.V.Anandhamurthy for R2

ORDER

The petitioner, being the wife of (late) Kumarimuthu, has come to this Court seeking a limited prayer for issuance of a writ of mandamus, directing the Principal Secretary to Government, Housing and Urban Development Department, the first respondent herein to dispose of the stay petition filed along with the statutory appeal dated 21.2.2017 against the proceedings passed by the Managing Director, Tamil Nadu Housing Board, the second respondent herein in Order

No.Va.Va.B.1/20321/2016 dated 25.1.2017 and till such time the respondents may be directed not to evict the petitioner from the Flat No.9E, Tower Block, Nandanam, Chennai.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice on behalf of the first respondent. Mr.V.Anandhamurthy, learned counsel takes notice on behalf of the second respondent.

3. The petitioner's husband was allotted a Flat bearing No.9E in Tower Block, Nandanam, Chennai by the Secretary to Government with an order dated 15.3.2001 under the discretionary quota of the Government, on the ground that her husband Mr.Kumarimuthu was a veteran comedy actor and was awarded with Kalaimamani, Kalaichelvam and Kalaivanar awards by the Tamil Nadu Government as well as by the South Indian Film Artists Association. Based on the order of the Government, the second respondent also issued a regular order of allotment on 29.3.2001 on a monthly rent of Rs.663/- and her husband was also regularly paying the rent along with six months advance of Rs.3,978/-, apart from a sum of Rs.500/- towards the electricity deposit. In addition thereto, her husband also paid a sum of Rs.7,034/- towards the rent for the vacant period from 31.5.2000 to 31.3.2001, since the earlier allottee had not paid the rent. As the petitioner's husband nor the petitioner failed to own any house in the city of Chennai, they were staying in the allotted flat. Unfortunately, the petitioner's husband died on 29.2.2016 leaving behind the petitioner and his two daughters, who are married and living separately. In the meanwhile, the second respondent issued a notice under Section 84(2) of the Tamil Nadu Housing Board Act calling for an explanation as to why the allotment should not be cancelled. Since the original allottee died, the petitioner gave her explanation. But this was not considered, as a result an order of eviction was passed. As against that, an appeal was filed before the first respondent and the same is pending along with the stay application. Even the stay application has not been taken up by the first respondent, as a result, apprehending any time eviction at the hands of the respondents, she has been advised to come to this Court.

4. This Court, without going to the merits of the matter, considering the pendency of the appeal on the file of the first respondent along with the stay application, putting on notice the learned Additional Government Pleader for the first respondent, following the earlier order passed by this Court in W.P.No.43998 of 2016 dated 22.12.2016 (K.Chelladurai v. The Secretary to Government, Housing and Urban Development Department and two others) granting four weeks time to dispose of the appeal, hereby directs the first respondent to dispose of the appeal filed by the petitioner on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. Till then, the possession of the

petitioner shall not be disturbed. The writ petition is disposed of accordingly. Consequently, W.M.P.No.5530 of 2017 is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ss
To

1. The Principal Secretary to Government
Housing and Urban Development Department
Secretariat
Chennai 600 009
2. The Managing Director
Tamil Nadu Housing Board
No.493, Anna Salai
Nandanam
Chennai 600 035

+1cc to Mr.S. Doraisamy, Advocate, S.R.No.13958
+1cc to Mr.V. Anandamoorthy, Advocate, S.R.No.14204
+1cc to the Government Pleader, S.R.No.14284

VGI (CO)
EU 16.3.17

W.P.No.5206 of 2017

सत्यमेव जयते

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