

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.7972 of 2014
and M.P.No.1 of 2014 & W.M.P.No.27077 of 2017

B.Maragathamani

.. Petitioner

Vs.

1. The Secretary,
Tamilnadu Housing Department,
Fort St.George,
Nandanam,
Chennai - 600 035.
2. The Chairman & Managing Director,
Tamilnadu Housing Department,
Fort St.George,
Nandanam,
Chennai - 600 035.
3. The Executive Engineer,
Tamilnadu Housing Department,
493, Anna Salai,
Nandanam,
Chennai - 600 035.
4. The Asst. Executive Engineer,
Tamilnadu Housing Department,
Mandavelipakkam,
Chennai - 600 028.
5. The Junior Engineer,
Tamilnadu Housing Department,
Mandavelipakkam,
Chennai - 600 028.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the second respondent to confirm the allotment of the schedule property made to the petitioner which was already allotted on her name in the year 1979 as legal heir of first allottee Late Mr.M.Balaraman.

For Petitioner: Mr.B.Sundar
For Respondents: Mr.R.Govindasamy,
Special Government Pleader for R1
Mr.K.Venkataramani,
Additional Advocate General
Assisted by Mr.V.Anandamoorthy,
Standing Counsel for R2 to R5

O R D E R

The petitioner seeks for a mandamus directing the second respondent to confirm the allotment of the subject matter property to the petitioner, which was already allotted on the petitioner's name in the year 1979, as legal heir of the first allottee viz., late Mr.M.Balaraman.

2.Heard Mr.B.Sundar, learned counsel appearing for the petitioner, Mr.K.Venkataramani, learned Additional Advocate General, assisted by Mr.V.Anandamoorthy, learned Standing Counsel appearing for the respondents R2 to R5 and Mr.R.Govindasamy, learned Special Government Pleader appearing for the first respondent.

3.After notice to the respondents, the matter is taken up today for hearing. Learned Additional Advocate General appearing for the respondents 2 to 5 submitted that the prayer in the writ petition is not maintainable, since the allotment granted in the name of the petitioner was already cancelled by the Tamilnadu Housing Board as early as on 21.01.2014, even before filing the writ petition. Therefore, he submitted that the petitioner has to only challenge the order of cancellation before the appropriate Appellate Forum under Section 86 of the Tamilnadu Housing Board Act.

4.On the other hand, learned counsel appearing for the petitioner submitted that the very cancellation order itself was served on the petitioner only on 22.09.2017 and before the said day, the respondents have not chosen to communicate the said order to the petitioner in any mode.

5.Learned Additional Advocate General appearing for the respondents 2 to 5 further submitted that pursuant to the issuance of the cancellation order, they have also taken possession. The said statement is disputed by the learned counsel for the petitioner by specifically contending that the possession is still with the petitioner. This Court, at this stage, is not inclined to go into that aspect, as the petitioner has to necessarily challenge the order of cancellation before the Appellate Authority, as provided under the said statute. Accordingly, this writ petition is disposed of as follows:

a) The petitioner is permitted to file an appeal before the Appellate Authority under Section 86 of the Tamilnadu Housing Board Act, challenging the order of cancellation within a period of two weeks from the date of receipt of a copy of this order;

b) On receipt of such appeal, the concerned Appellate Authority shall dispose of the appeal, on merits and in accordance with law, after giving due opportunity of hearing to the petitioner, within a period of four weeks thereafter;

It is made clear that this court is not expressing any view on the merits of the matter, as it is for the Appellate Authority to consider and decide. However, till the disposal of the appeal, both the parties are directed to maintain status quo as on today. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

vri

To

1. The Secretary,
Tamilnadu Housing Department,
Fort St.George,
Nandanam, Chennai - 600 035.
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5. The Junior Engineer,
Tamilnadu Housing Department,
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+ 2 ccs to Mr. G. Babu Ganesh, Advocate Sr.71061
+ 1 cc to Mr.V. Anandamoorthy, Advocate Sr.71112

W.P.No.7972 of 2014

CS-V

EU(06/10/2017)