

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Writ Petition No. 3788 of 2017

A.I.Shareefa

... Petitioner

Versus

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Housing Urban Development Department,
Fort St. George,
Chennai 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
Nandanam Division,
Chennai 600 035.
3. The Deputy Secretary (Revenue),
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam, Chennai 600 035.
4. The Tamil Nadu Housing Board,
rep. by its Executive Engineer
cum Administrative Officer,
Nandanam Division,
Chennai 600 035.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling upon the entire records in respect of the impugned order passed by the 3rd respondent bearing No.Va.va.P1/22432/2016 dated 10.11.2016 which was received by the petitioner on 25.11.2016 and impugned order passed by the 4th respondent in Reference No.N.D.R.11/2371/2016, dated 24.01.2017, calling upon the petitioner to vacate and hand over vacant possession of the said premises situated in RI No.3-A, Old Tower Block, Nandanam Extension, Nandanam, Chennai 600 035, and quash the same and consequently direct the 2nd respondent to effect transfer of tenancy in respect of the said flat premises in favour of the petitioner on receipt of the necessary charges pertaining to the transfer.

For Petitioner : Mr.L.Ramu

For 1st Respondent : Mr.S.Rajeswaran,
Special Government Pleader

For Respondents 2 to 4 : Mr.V.Anandhamoorthy,
Additional Government Pleader

ORDER

The petitioner calls in question the order dated 08.12.2016 passed by the second respondent calling upon her to vacate and hand over vacant possession of the premises bearing No. RI-7, Lloyds Road, Royapettah, Chennai-14.

2. It is seen from the records that the aforesaid premises was allotted by the respondents in favour of the husband of the petitioner on rental basis and he was in possession and enjoyment of the same. While so, 12.09.2015, the petitioners husband died. After the death of her husband, the petitioner sent several representation to permit her to reside in the said property on rental basis and also paid the monthly rent periodically. While so, the respondent passed the order dated 08.12.2016 rejecting the request of the petitioner by citing that as per the policy decision taken by the Board, when once the original allottee died, the allotment cannot be transferred in favour of his or her legal heirs and that the legal heirs can only be permitted to reside thereon for a period of six months.

3. When the writ petition is taken up for hearing, this Court posed a question to the learned counsel for the petitioner as to how this Court, in exercise of the powers conferred under Article 226 of The Constitution of India, can interfere with a policy decision taken by the respondents, which is being uniformly applied in the case of all the allottees. The learned counsel for the petitioner would submit that the petitioner is a widow and she is having three children to be taken care and therefore, he only prayed for issuing appropriate direction to the respondents to transfer the leasehold right and/or tenancy in favour of the petitioner.

4. Mr. Anandhamurthy, learned counsel appearing for the respondents 2 to 4 would contend that in identical circumstances, WP No. 502 of 2017 was filed before this Court by one G. Kalavathy and during the course of hearing, the learned counsel for the petitioner in WP No. 502 of 2017 had withdrew the writ petition on 10.01.2017 inasmuch as this Court refused to grant any relief in favour of the petitioner therein.

5. I heard the learned counsel for both sides and perused the materials placed on record. Admittedly, the respondents have taken a policy decision to permit the legal heirs of the deceased allottee to reside in the property for a period of six months. In the present case, the allotment was made in favour of the husband of the petitioner and he died on 12.09.2015 and thereafter, till date, the petitioner and her children are in possession and enjoyment of the premises. Further, in identical circumstances, the relief sought for by the petitioner in WP No. 502 of 2017 was not entertained by this Court and resultantly, WP No. 502 of 2017 was dismissed as withdrawn. In such circumstances, especially when a policy decision has been taken by the respondents Board not to extend the allotment in favour of the legal heirs, this Court is not inclined to interfere with the order impugned in this writ petition.

In the result, the writ petition is dismissed. No costs. Consequently, connected W.M.P.No.3845 of 2017 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

aeb/rsh

To

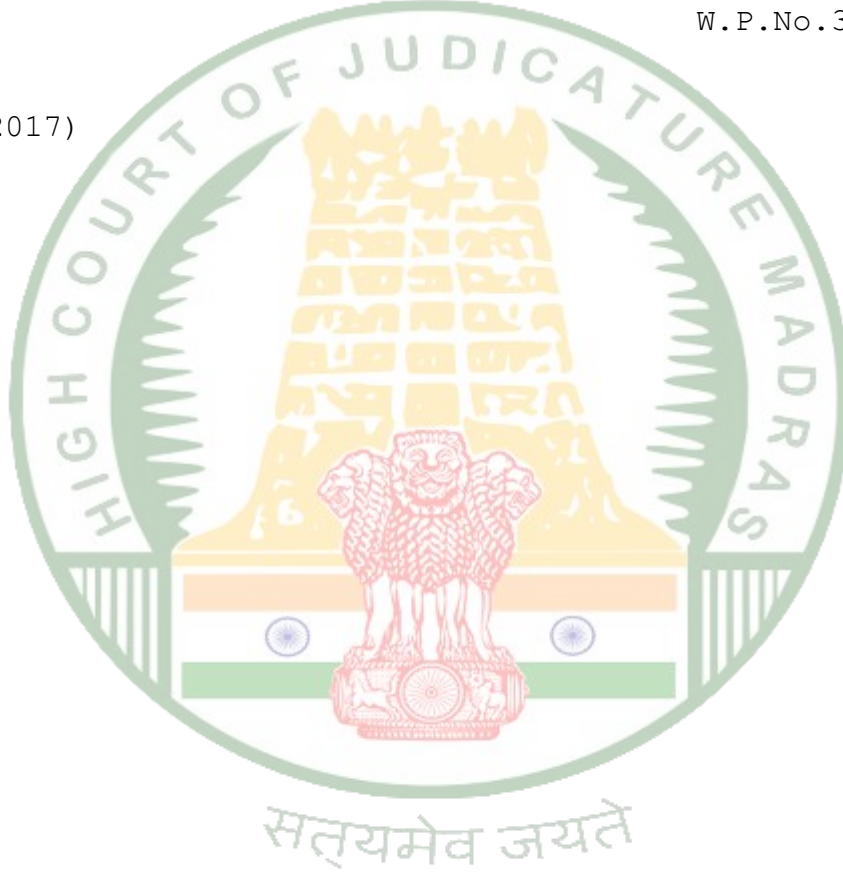
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+1cc to Mr.Anantha moorthy, Advocate, S.R.No.9797
+1cc to Mr.Ramu, Advocate, S.R.No.10389
+1cc to the Government Pleader, S.R.No.10225

W.P.No.3788 of 2017

KGK(CO)
RS(27/03/2017)



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