

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2017

CORAM :

THE HONOURABLE Mr.JUSTICE B.RAJENDRAN

W.P.No.1782 of 2017
and
W.M.P.No.1767 of 2017

R.M.Andhiappan

... 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 Executive Engineer-cum-Administrative Officer,
CIT Nagar Redevelopment Works Division,
Tamil Nadu Housing Board,
Chennai-600 035.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, directing the 1st respondent to dispose of the stay petition filed along with the appeal dated 09.01.2007 preferred by the petitioner against the proceedings of the 2nd respondent in Letter No.CIT/A1/1456/16, dated 21.12.2016 and till then stay the operation of the order of eviction passed by the 2nd respondent in Letter No.CIT /A1/1456/16, dated 21.12.2016.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.Vivekanandan,
Standing Counsel for R2
Mr.A.Kumar,
Special Government Pleader for R1

ORDER

This Writ Petition has been filed by the petitioner, praying to direct the 1st respondent to dispose of the stay petition filed along with the appeal dated 09.01.2007 preferred by the petitioner against the proceedings of the 2nd respondent in Letter No.CIT/A1/1456/16, dated 21.12.2016.

2.It is stated by the petitioner that Commercial Shop bearing No.4/475, Anna Salai, Nandanam, Chennai, was allotted to him in the year 1961. Originally, in the said shop, he was running an Auto Were House & Spares Parts shop. Since it is not profitable, he informed the 2nd respondent that he has changed over the business for running a fruit juice and snacks shop; he requested the respondents to grant permission for the same. He made some alternation and repairs in the shop building, for running the fruits juice shop. However, the 2nd respondent issued a show cause notice on 30.09.2008 to the petitioner, stating that without obtaining proper permission, he made some alternations in the shop building. The petitioner sent a reply dated 04.10.2008 stating that only minor alterations and repairs were carried out, without damaging the building.

3.It is further stated by the petitioner that subsequently, he started a Tea stall and since it is a new business for him, he took a partner by name T.K.Manoj to run the Tea Stall. Thereafter, he obtained a licence under Section 279 of the Chennai City Municipal Corporation Act, from the Commissioner of the Greater Chennai Corporation to run the Tea Stall. The said licence is being renewed every year and the petitioner is also paying the property tax to the Corporation regularly in his name. Originally, the rent was Rs.63/- and it was periodically increased and lastly, by an order dated 31.08.2015, the monthly rent was increased to Rs.2,687/-. The petitioner is paying the rent regularly without any arrears.

4.While so, the 2nd respondent on 24.11.2016 issued an order, directing the petitioner to vacate the premises on the ground that he has sublet the premises to one Manoj, and to handover the possession within seven days from the receipt of the order. Against the said order, the petitioner had earlier filed a writ petition in W.P.No.43008 of 2016 before this Court. While disposing of the said writ petition, by order dated 09.12.2016, this Court directed the respondents to consider the petitioner's representation dated 29.11.2016 and to dispose of the same within two weeks. Thereafter, the 2nd respondent has passed the order dated 21.12.2016 directing the petitioner to vacate the premisses, against which the petitioner has filed an appeal before the 1st respondent on 09.01.2017 under Section 86 of the Tamil Nadu Housing Board Act. Along with the said appeal, the petitioner has also filed a stay petition under Section 86(3) of the said Act. As no order has been passed in the said stay petition, the petitioner has filed the present writ petition before this Court.

5.Heard both sides and perused the materials available on record.

6.The only grievance of the petitioner is that he has preferred an appeal along with a stay petition and that no orders have been passed in the said stay petition. But, it is seen that as contended by the learned counsel for the 2nd respondent, the appeal itself has been filed by the petitioner only on 09.01.2017 before the 1st respondent and immediately, he has come to this Court seeking a direction to the respondents to dispose of the stay petition filed by the petitioner.

7.Considering the facts and circumstances of the case, this Court is of the view that it would suffice to give a direction to the 1st respondent to take up the appeal itself for disposal, as early as possible. Accordingly, the 1st respondent is directed to take up the appeal preferred by the petitioner and to dispose of the same, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssv

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Chennai-600 009.
2. The Executive Engineer-cum-Administrative Officer,
CIT Nagar Redevelopment Works Division,
Tamil Nadu Housing Board,
Chennai-600 035.

+lcc to Mr.S.Doraisamy, Advocate, S.R.No.6181

+lcc to Mr.V.Anandhamurthy, Advocate, S.R.No.6575

+lcc to the Government Pleader, S.R.No.6472

W.P.No.1782 of 2017 and

W.M.P.No.1767 of 2017

KJ(CO)

CA(13/02/2017)