

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.29848 of 2017

Thiruvallleswara Nagar
Co-operative Housing Society Ltd.,
Rep by its President
114 Sundarar Street,
Thiruvalllesswarar Nagar,
Anna Nagar West,
Chennai-600 040

... Petitioner

Vs.

1. The Corporation of Chennai,
Rep by its Commissioner,
Chennai-600 003.
 2. The Zonal Officer
Zonal Office, Zone No.7,
Corporation of Chennai
Ambattur, Chennai 600 053.
 3. Shree Thiruvalllesswara Devasthanam
by its Executive Officer
Padi, Chennai 600 050
 4. The Government of Tamil Nadu
rep by Additional Secretary,
Housing & Urban Development
Department, Secretariat, Chennai 600 009.
 5. The Commissioner
Hindu Religious & Charitable Endowment Board,
Nungambakkam High Road,
Nungambakkam, Chennai 600 034
 6. The Tamil Nadu Housing Board
by its Managing Director,
331, Anna Salai, Nandanam,
Chennai 600 035
- Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents 1 & 2 to accord sanction to the members of the petitioner association as and when they approach the respondents 1 & 2 to demolish and reconstruct their respective building or repair their respective building in the plots in S.No.218/2, Padi Village, Ambattur Taluk without insisting on the production of any document of title relating to the land or the building

under their occupation or any no objection certificate from the third respondent or the 5th or the 6th respondent.

For Petitioner : Mr.G.Suryanarayanan
For Respondents: Mr.T.C.Gopalakrishnan (for R1&R2)
Mr.M.Maharaja, Spl GP (for R3 & R5)
Mr.S.Diwakar, Spl GP (for R4)
Mr.V.Anandhamurthy (for R6)

ORDER

The petitioner has come forward with this petition to direct the respondents 1 & 2 to accord sanction to the members of the petitioner-Society as and when they approach the respondents 1 & 2 to demolish and reconstruct their respective building or repair their respective building in the plots in S.No.218/2, Padi Village, Ambattur Taluk without insisting on the production of any document of title relating to the land or the building under their occupation or any No Objection Certificate from the third respondent or the 5th or the 6th respondent.

2. The learned counsel appearing for the petitioner-Society submitted that the members of the petitioner-Society were lessees and they are residing in the Temple land for years and they wanted to construct buildings, even though the Commissioner had imposed a rider, stating that if the building is not constructed, the land be handed over to the Temple. The petitioner-Society however stated that the members of the Society are willing to continue in the property by paying the lease amount without handing over the constructed building, if permission is granted.

3. Mr.M.Maharaja, learned Special Government Pleader appearing for the respondents 3 & 5 and Mr.T.C.Gopalakrishnan, learned counsel appearing for the Corporation respectively, submitted that the writ petition is not maintainable. According to the learned Special Government Pleader, the members of the petitioner-Society cannot reside in the place as lessees for more than 3 years continuously as per Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act. Mr.T.C.Gopalakrishnan, learned counsel has submitted that the petitioner-Society has no locus standi to file this writ petition, as the individual allotments have been made, those individual allottees should appear before this Court. The learned counsel appearing for the 6th respondent / Housing Board submitted that the property has been originally allotted to them and neither the petitioner-Society nor its members have any right to continue to be in occupation of the premises.

4. In reply, the learned counsel appearing for the petitioner submitted that even though the petitioner has sought for prayer mentioned supra, they made representation dated 20.10.2017 and prayed that the same may be considered in accordance with law, for which, the respondents 1 to 5 have no objection and the learned counsel for the 6th-TNHB respondent would submit that they must also be heard before the decision is taken on such representation.

5. Taking note of the above submissions, the authority concerned shall consider and pass appropriate orders on the said representation within 15 days from the date of receipt of a copy of this order, after hearing the petitioner and the 6th respondent, apart from others who are interested in the matter. The petitioner and concerned official of the 6th respondent / TNHB shall appear before the concerned authority on 27.11.2017. On that date, if the petitioner fails to appear, its 86 members mentioned in the typed set of papers, at a later date, cannot contend that the petitioner is not authorised representative of the petitioner-Society to put-forth their submissions. It is for the authority to consider whether the petitioner has locus-standi to make such representation and whether the opportunity of being heard be given to the petitioner along with other issues. It is needless to mention that neither the petitioner nor its member can continue in this tenement under nomenclature lessee / tenant and the like for ever.

6. With the above observation and direction, the writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

सत्यमेव जयते
Sub Asst. Registrar

pvs

To:

1. The Commissioner,
The Corporation of Chennai, Chennai-600 003.
2. The Zonal Officer
Zonal Office, Zone No.7, Corporation of Chennai
Ambattur, Chennai 600 053.

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3. The Additional Secretary,
Government of Tamil Nadu,
Housing & Urban Development
Department, Secretariat, Chennai 600 009.

4. The Commissioner
Hindu Religious & Charitable Endowment Board,
Nungambakkam High Road,
Nungambakkam, Chennai 600 034

5. The Tamil Nadu Housing Board
by its Managing Director,
331, Anna Salai, Nandanam, Chennai 600 035

+ 1 cc to Mr.G.Suryanarayanan Advocate,SR.82574

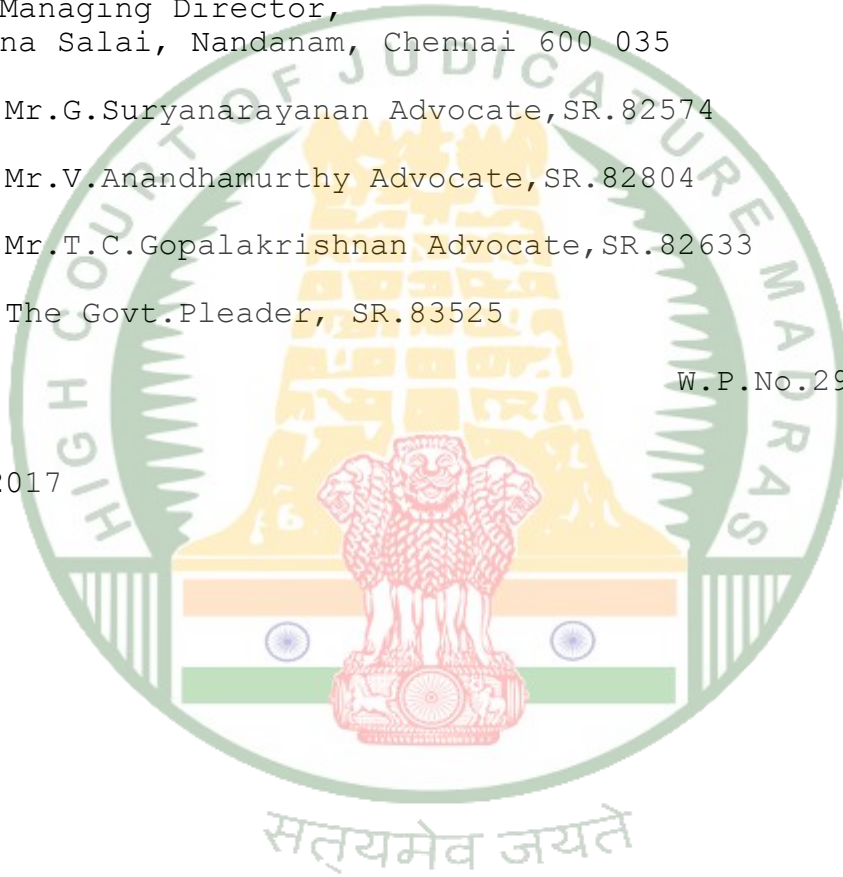
+ 1 cc to Mr.V.Anandhamurthy Advocate,SR.82804

+ 1 cc to Mr.T.C.Gopalakrishnan Advocate,SR.82633

+ 1 cc to The Govt.Pleader, SR.83525

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PA (CO)
NR 23/11/2017



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