

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.01.2017
CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 33114 of 2012
and
M.P. Nos. 1 & 2 of 2012

Azhwar

..Petitioner

Vs.

1. The Managing Director
Tamil Nadu Slum Clearance Board
No.5, Kamaraj Salai
Chennai- 5

2. The Estate Officer
Estate Office - III
Tamil Nadu Slum Clearance Board
Thirumangalam
Chennai - 600 040.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records in respect of the letter Ref. No. Se.Mu.No.976/ 02/D/Ae.Aa dated 07.09.2009 and the demand notice issued in February 2010 issued by the second respondent and to quash the same and to direct the respondent to receive the monthly rent as per the terms of allotment i.e. 10% increase every three years and pass on receipt and pass further orders.

For Petitioner : No Appearance
For Respondent : Mr. B. Kesavan (TNSCB)

WEB COPY
O R D E R

This writ petition has been filed praying to quash the letter Ref.No. Se.Mu. No.976/02/D/Ae.Aa dated 07.09.2009 and the demand notice issued in February 2010 issued by the second respondent and to direct the respondents to receive the monthly rent as per the terms of allotment i.e. 10% increase, every three years and pass on receipts.

2. As stated in the affidavit filed in support of the petition, in the year 2003 the respondent Board allotted about 90 sq.ft., open space for ground rent in Gandhi Nagar, ICF area to the petitioner and permitted him to have bunk shops for commercial use. On paying Rs.1540/- being 10 months rent, the petitioner had constructed two floors was using it for commercial purpose. As per allotment order, the allotted area is 70 sq.ft., but when measured the ear marked area was 90 sq.ft. Later, the wooden structure of the shops was replaced with a permanent concrete structure. Subsequently, the respondents Board revised the monthly rent as Rs.1344/- per month. Aggrieved by the exorbitant rent fixed by the respondents, the petitioner submitted an appeal on 28.03.2005, stating the reasons for putting up semi permanent concrete wall. Although no reply was given, the respondents Board have been receiving the old rent from the petitioner. Suddenly, the impugned order has been issued on 07.09.2009, followed by the demand notice with a warning to seal the petitioner's shop. It is further stated that violating the terms of allotment, that there will be 10% increase every three years, from 2005 the rent has been increased about 8 times and now the respondents are demanding arrears of rent. Explaining the above facts, the petitioner submitted a representation on 13.10.2011. Since, no action is taken on his request, this writ petition has been filed to quash the impugned proceedings.

3. There is no representation for the petitioner. The respondents have filed their counter. Reiterating the grounds in the counter affidavit, learned counsel for the respondents Board submitted that the petitioner was allotted land measuring an extent of 70 sq.ft. and was permitted to put up a bunk near 'K' Block area, Gandhi Nagar, at a rent of Rs.2.20/- per month. It is stated that the petitioner without getting permission from the Board, has constructed ground floor and first floor to an extent of 172 sq.ft., and is in occupation of a total plinth area of 244 sq.ft. As per the Board's Resolution No.16 dated 27.11.2002, the rent was revised as Rs.1344/- per month. Assailing the said order of the respondents, the petitioner has filed an appeal before the Secretary, Housing and Urban Development Department on 28.03.2005. The appellate authority directed the respondents to submit a report and the respondents have also filed the report on 09.05.2005 and a second report on 23.10.2012. Pending appeal, the present writ petition has been filed by the petitioner. It is further submitted that the petitioner has not paid any rent from 2010 onwards. Since there is no stay of the impugned proceedings, the respondents have sought for arrears of rent payable by the petitioner. In view of the same, the writ petition is not sustainable and is liable to be dismissed.

4. Considering the facts and circumstances of the case and the submission of the learned counsel for the respondents Board, this Court is inclined to direct the Secretary, Housing and Urban Development Department, Chennai, to dispose of the appeal of the petitioner dated 28.03.2005, on merits and in accordance with law, as early as possible, preferably within a period of twelve weeks from the date of receipt of a copy of this order, after providing an opportunity of hearing to the parties concerned.

5. Accordingly, the writ petition is disposed of. Consequently, the connected M.Ps are closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

avr

To

1. The Managing Director
Tamil Nadu Slum Clearance Board
No.5, Kamaraj Salai
Chennai- 5

2. The Estate Officer
Estate Office - III
Tamil Nadu Slum Clearance Board
Thirumangalam
Chennai - 600 040.

W.P. No. 33114 of 2012
and

M.P. Nos. 1 & 2 of 2012

lrs(co)
aa10/03/2017

WEB COPY