

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.24121 of 2005 and
W.P.M.P.No.26306 of 2005

P.Dhanraj

...Petitioner

Vs.

1. State represented by
Secretary to the Government,
Housing & Urban Development Department,
Fort St. George, Chennai 9.
2. Executive Engineer & Administrative Officer
Vellore Housing Unit,
Phase-1, Bharathi Nagar,
Chathuvacheri, Vellore 632 009
3. The Principal
Government Vellore Medical College Hospital,
Vellore District

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus or any other appropriate writ, order, direction in the nature of writ by calling for the records pertaining to the issue of the impugned order passed by the 2nd respondent in V.G.R.1/7459/98 dated 13.06.2005 and consequently forbear the 2nd respondent herein from insisting upon the peal rent from the petitioner herein.

For Petitioner : Mr.E.Girirajan

For Respondents : Mr.G.B.Rajesh for R1 & R3
Mr.V.Anandhamoorthy for R2.

ORDER

The imposition of penal rent for the unauthorised occupation of the Housing Board premises by the writ petitioner, issued under proceeding dated 13.06.2005, is under challenge in the present writ petition.

2.The petitioner was employed as a Male Nursing Assistant in Government hospital for about 29 years. The petitioner was allotted a house in the Vellore Housing Board by the 2nd respondent by his proceeding dated 22.11.1994.

3.The grievance of the writ petitioner is that, the impugned order imposing the penal rent had been issued without any opportunity. One month prior notice required to be issued, had also not been served on the writ petitioner. Thus, the order impugned is liable to be scrapped.

4.The learned counsel appearing on behalf of the respondents opposed the contention of the petitioner by stating that the writ petitioner was admittedly allotted with the Housing Board Flat and even after the allotment of the same in the name of the writ petitioner, he continued in the Tamil Nadu Housing Board Rental Quarters. Thus, the writ petitioner was not eligible to continue in the Tamilnadu Housing Board Rental Quarters after the allotment of a Flat by the Housing Board. The allotment was made for out right purchase and therefore, the writ petitioner is liable to pay the penal rent as claimed by the Respondent Board. The allotment was made in the year 1994 and thereafter, the writ petitioner continued in the Tamil Nadu Housing Board Rental Quarters till October 2001. Thus, a penal rent of Rs.21,561/- was imposed on the writ petitioner.

5.This Court is of the opinion that the Tamil Nadu Housing Board Rental Quarters is to be allotted to the person who is not owning any property in that locality. Admittedly, the petitioner was allotted a Flat in the Vellore Housing Board and when the petitioner owns a flat in the Tamiladu Housing Board at Vellore, he is not entitled to avail the benefit of Tamil Nadu Housing Board Rental Quarters. This being the factum of the case, there is no infirmity in respect of the order passed by the second respondent imposing the penalty for the over stay of the writ petitioner in the rental quarters. Accordingly, the writ petitioner is liable to pay the penal rent as claimed by the second respondent and there is no infirmity in respect of the impugned order. Accordingly, the writ petition is devoid of merits and the impugned order stands confirmed.

6.In the result, the writ petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to the Government,
Housing & Urban Development Department,
Fort St. George, Chennai 9.
 2. Executive Engineer & Administrative Officer
Vellore Housing Unit,
Phase-1, Bharathi Nagar,
Chathuvacheri, Vellore 632 009
 3. The Principal
Government Vellore Medical College Hospital,
Vellore District
- +1 CC to Mr.E.Girirajan, Advocate sr 84319.
+1 CC to The Govt. Pleader sr 84461.
+1 CC to Mr.V.Anandhamoorthy, Advocate sr 83843.

W.P.No.24121 of 2005

RK(CO)
SP(21/01/2019)