

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 5.2.2018	Delivered on 23.03.2018
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CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.211 OF 2017

1 K.Rajendra Prasad
2 N.Unnikrishnan
3 K.M.Elizabeth Mary
4 C.Balakrishnan
5 A.Solaiappan
6 B.Subadra
7 Mahalakshmi
8 Syed Mazharuddin
9 B.Chithra
10 Habibunnisa Begum ..Appellants/Petitioners

versus

1 The Principal Secretary to Government
Housing and Urban Development Department,
Fort St. George Secretariat
Chennai-9.
2 The Tamil Nadu Housing Board
Rep. by its Managing Director Nandanam
Chennai-35.
3 The Executive Engineer cum Administrative officer
CIT Nagar Renovation Scheme, O/o.TNHB
Nandanam Chennai-35. ... Respondents

Writ Appeal filed under clause 15 of the Letters patent
against the order passed by this Court dated 7.2.2017 in
W.P.No.41009 of 2016.

W.P.No.41009 of 2016:-

Writ petition filed under Article 226 of the Constitution of
India for issuance of a writ of certiorarified mandamus to Call
for the records of the 3rd respondent pertaining to Letter
No.CIT/A1A 1259B/16 dated 26.08.2016 issued to the petitioners
and quash the same and consequently direct the 1st and 2nd

respondents to allot on outright sale basis the properties already allotted to the respective petitioners comprised in Model Hutment Road C.I.T. Nagar Nandanam Chennai 600 035

For appellants : Mr.Richardson Wilson

For Respondents : Mrs.Ramya Revathy, Government Advocate
for respondents 1 and 3

Mr.V.Ananda Moorthy, Addl.
Government Pleader
for 2nd respondent

K.K.SASIDHARAN, J.

Introductory:-

Even though the rental quarters constructed by the erstwhile City Improvement Trust in 1953 are in a highly dilapidated condition, borne out by the report submitted by the experts from the Anna University recommending immediate demolition and reconstruction and a decision was taken by the Tamil Nadu Housing Board to allot the quarters after reconstruction to the present occupiers, the appellants are not prepared to vacate and are claiming that they should be given ownership right, by converting the rental quarters into one of ownership by hire purchase, notwithstanding the policy decision taken by the Housing Board in 2007 not to permit such conversion henceforth.

The facts in brief:-

2. The predecessor-in-interest of the Tamil Nadu Housing Board viz., the Madras City Improvement Trust, constructed residential quarters at CIT Nagar in 1953. The Madras City Improvement Trust allotted the quarters to the appellants and others on rent. The tenants have continued to occupy the premises on payment of rent.

3. The Tamil Nadu Housing Board, the successor-in-interest found that majority of the houses constructed in 1953 were in a dilapidated condition and it has been endangering the lives of the people who are residing there. The Tamil Nadu Housing Board took the expert services of the Structural Engineering Division of Anna University to assess the structural stability of the building. The experts have given a report that the building is structurally unsound and it required immediate demolition. The expert committee opined that the building outlived its age and it would not be possible to repair it, given its bad condition.

4. The report of the expert Committee was taken note of by the Tamil Nadu Housing Board. The Board in its meeting on 24 January 2005, resolved to forward the Expert Committee report to the Government with recommendation for demolition and reconstruction.

5. The Government considered the resolution passed by the Housing Board along with the Expert Committee report and decided to demolish the structure. The Minister for Housing made a statement on the floor of the Legislative Assembly on 26 August 2011, with regard to the decision taken by the Government to demolish the dilapidated structures and to construct 474 flats at a cost of Rs.77.70 crores.

6. The Government issued administrative sanction for demolition of the dilapidated building and immediate reconstruction, by issuing Government orders in G.O.Ms.No.52 dated 5 March 2012. The Government made it clear that 126 flats in one component would be allotted to the present occupiers and 348 flats in the second component would be allotted to the public by way of outright sale under self financing category.

7. The Housing Board issued individual notices to the appellants to vacate the premises for demolition and reconstruction. The appellants were informed that they would be given allotment of flats after reconstruction. The notices were challenged in W.P.No.41009 of 2016. The Writ Petition was dismissed.

Submission by parties:-

8. The learned counsel for the appellants mainly based his arguments on the ground of discrimination. According to the learned counsel, some of the other allottees were earlier given permission for conversion from rental quarters to hire purchase and on payment, ownership right was given. Since the appellants are similarly situated, they should also be given the ownership right.

9. The learned counsel for the Housing Board contended that the Housing Board took a policy decision in 2007 not to convert rental quarters into ownership buildings. Thereafter, not even a single house was given by conversion. According to the learned counsel, all the appellants would be given rental flats after reconstruction.

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Analysis :-

10. There is no dispute that the residential houses which is the subject matter of this litigation were constructed in 1953. The appellants and others were given allotment as tenants. There was no assurance that they would be given ownership right at a later point of time. It is evident from the documents produced by the appellants that some of the rental houses were converted into hire purchase category. Such illegality cannot be perpetuated.

11. In case there was an indication when initial allotment was made that the rental houses would be given to the allottees, later, by converting it as hire purchase category, there would have been large number of applications for such allotment. The Housing Board rightly took a policy decision in 2007 not to convert the rental houses into ownership category. The appellants have no case that even thereafter, ownership rights were given to others who are similarly situated.

12. There is no challenge to the report submitted by the expert committee with regard to the dilapidated condition of the building. The building is a source of danger not only to the appellants but also to the neighbours and general public.

13. The Housing Board is a public body. The Board must be in a position to utilize its land for profitable purposes by giving allotment to the general public. The housing is a perennial problem in Chennai. In case flats are constructed, the remaining flats, after making allotment to the appellants, can be given to the public by adopting a transparent process.

14. The Housing Board prepared estimate for construction of 474 flats at a cost of Rs.77.70 crores in 2011. The litigation initiated by the appellants resulted in boosting the construction cost. The ultimate loss is to the public and the public exchequer.

15. The appellants have no legal or moral right to claim ownership right. There was no promise given at the time of allotment of rental houses that they would be given the ownership rights. We are therefore of the view that the appellants are not entitled to invoke the equity jurisdiction under Article 226 of the Constitution of India.

16. The intra court appeal is dismissed without liability to pay costs. Consequently, connected M.P.s, are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Principal Secretary to
Government Housing and Urban Development
Department Fort St. George Secretariat
Chennai-9.
- 2 The Managing Director
Tamil Nadu Housing Board
Nandanam
Chennai-35.
- 3 The Executive Engineer cum
Administrative officer CIT Nagar Renovation
Scheme O/o.The Tamil Nadu Housing Board
Nandanam Chennai-35.

+1cc to Mr.V.Ananda Moorthy, Advocate, S.R.No.22296
+1cc to the Government Pleader, S.R.No.22884

W.A.No.211 OF 2017

KGK(CO)
CS/16/04/18

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