

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 3.9.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.1896 of 2018

and

C.M.P.No.15260 & 15261 of 2018

Mrs.Valsa Shyam Sundar Appellant/ petitioner

Versus

1. The Tamilnadu Housing Board,
rep. by its Managing Director,
No.493, Anna Salai, Nandanam,
Chennai 600 035.

2. The Executive Engineer cum
Administrative Officer,
Nanadanam Division,
Tamilnadu Housing Board,
No.493 Anna Salai, Nandanam,
Chennai 600 035.

3. The Revenue Officer,
Tamilnadu Housing Board,
No.493 Anna Salai, Nandanam,
Chennai 600 035.

Respondents/ Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 8.6.2018 passed in W.P.No.10701 of 2012 .

Prayer W.P.No.10701 of 2012:

Petition Filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorified Mandamus to calling for records relating to the order of the third respondents proceedings made in Va.Va.Pi.1/7266/2010 dated 20.3.12 signed on 29.3.12 to quash the same.

For appellant : Mr.Venugopal Raj, S.

For respondents : Mr.V.Anandhamoorthy

JUDGMENT

(Judgment of the court was made by K.KALYANASUNDARAM, J.)

Heard Mr.Venugopalraj, learned counsel appearing for the appellant and Mr.Anandhamurthy, learned Standing Counsel appearing for the respondents and perused the matter available on record.

2. This writ appeal has been filed as against the order passed by the learned Single Judge in W.P.No.10712 of 2012 dated 8.6.2018.

3. The respondent-Housing Board allotted a flat No.D/6, MIG Block, Turnbolls Road, Nandanam, Chennai in the year 1972 against the quota meant for the public with a condition that it should be occupied and rent should be paid to the Housing Board.

4. The case of the respondent-Housing Board is that the appellant/writ petitioner has not occupied the premises for more than 2 months and hence, initiated proceedings to cancel the allotment. After notice, the respondent passed an order of cancellation that was challenged by the petitioner before the writ court. The case of the appellant/writ petitioner is that she was not given opportunity before the order of cancellation.

5. The learned Single Judge, after considering the fact that the appellant/writ petitioner has not produced any tangible evidence to support the case that she has been in occupation of the premises and also considering the fact that an advertisement was made on behalf of the appellant/writ petitioner, in the website "www.airbnb.in" with photos of interiors of the flat, inviting interested persons to hire the flat for rental, came to a conclusion that the appellant/writ petitioner was not using the flat for which she was allotted originally and the flat was not in occupation at all. Therefore, it is evident that there is gross violation of the conditions of lease and the authorities, after taking note of the fact that the notice sent to her calling for explanation was returned with the postal endorsement 'door locked', has rightly proceeded against the appellant/writ petitioner.

6. In the facts and circumstances, the learned Single Judge has observed as under:-

"11. The objections that putforth in the counter affidavit filed by the respondent, have not been stated in the impugned proceedings dated 20.3.2012 and therefore, the eviction cannot be premised on those reasons, are not valid piece of arguments. When the fact of the matter is that on behalf of the petitioner, an advertisement was issued online site calling for interested persons for occupying the flat, this

court cannot turn a blind eye to such unimpeachable fact and merely stick to the rule of technicality stating the reason of advertisement made on behalf of the petitioner, was not a part of the reasoning found in the impugned proceedings dated 20.3.2012. What is required to be decided in this case is that whether the allottee has violated any of the conditions of allotment. In this case, it is unequivocally established that the allottee has violated the conditions that the flat has been kept locked for more than two months and an attempt has been made to sublet the flat to third parties."

7. Having heard the learned counsel appearing for the parties and perused the order passed by the learned Single Judge, we find that there is nothing to disagree with the well reasoned order passed by the learned Single Judge. Accordingly, the writ appeal is dismissed confirming the order passed by the learned Single Judge. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Managing Director,
Tamilnadu Housing Board,
No.493, Anna Salai, Nandanam,
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2. The Executive Engineer cum
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No.493 Anna Salai, Nandanam,
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3. The Revenue Officer,
Tamilnadu Housing Board,
No.493 Anna Salai, Nandanam,
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+1cc to Mr.V.ANANDAMURTHY , Advocate SR.No. 60790

W.A.No.1896 of 2018

ASK(25/10/2018)

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