

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.10.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4173 of 2013

and

M.P.No.1 of 2013

M.Rajammal Mylsamy

...Petitioner

vs

- 1.The Tamil Nadu Housing Board,
Rep.by its Chairman,
Anna Salai,
Nandanam,
Chennai - 600 035.
- 2.The Executive Engineer and Administrative
Officer,
Coimbatore Housing Unit,
Tamil Nadu Housing Board,
Tatabad,
Coimbatore - 641 012.
- 3.The Commissioner of Police,
Coimbatore - 18.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondents relating to the order dated 06.12.2012 of the 2nd respondent in Letter No.OTHU.20/14419/04-VA.VA. and quash the same and consequently forbear the respondents from in any manner evicting the petitioner from the residential premises at H2., LIG Colony, Punniyakodi Street, R.S.Puram, Coimbatore - 641 002, except other than by due process of law.

For Petitioner : Mr.N.V.Prasanna
for M/s.Sai & Bharath

For Respondents: Mr.V.Anandha Murthy for R1 & R2

Mr.R.S.Selvam, GA for R3

O R D E R

The order dated 06.12.2012 passed by the respondents to evict the writ petitioner from the Housing Board Residential Quarters is under challenge in this writ petition.

2. Admittedly, the husband of the writ petitioner was the original allottee of the Housing Board Residential House at H2., LIG Colony, Punniyakodi Street, Coimbatore. The original allottee passed away and subsequently, the writ petitioner continued in the said premises. The allegations against the writ petitioner is that she was the defaulter in respect of payment of monthly rent and other maintenance charges to the Housing Board.

3. The learned counsel for the writ petitioner made a submission that even before filing of the writ petition, the arrears of rent was cleared and therefore, the impugned order is liable to be scrapped.

4. At the outset, it is contended that the writ petitioner had paid the arrears due to the Housing Board and therefore, she is entitled to continue in the Housing Board Quarters as per the original allotment made in favour of the husband of the writ petitioner.

5. The learned counsel appearing on behalf of the respondent Board opposed the contentions by stating that the original allottee was the husband of the writ petitioner and after the demise of the allottee, his legal heirs are not entitled to continue in the premises. The legal heirs, in the event of submitting any fresh application, seeking allotment, the same is to be considered in accordance with the regulations of the Board and therefore, the writ petitioner is not entitled to continue in the Housing Board Quarters.

6. This Court is of an opinion that undoubtedly, the writ petitioner on account of the sudden demise of her husband, would be in penurious circumstances. However, now after this length of time, the petitioner has to seek an alternate remedy for fresh allotment. Soon after the death, it may be harsh on the part of the Board to vacate the wife of the allottee. Now almost five years lapsed and the petitioner is continuing in the premises based on the allotment granted in favour of her deceased husband. It is to be clarified that allotment of a Housing Board Quarters is not a hereditary one. The legal heirs cannot continue in the allotted house based on the original allotment made in favour of the deceased persons. In such a case, it will be very difficult to vacate the premises and the rules and

regulations of the Board is also unambiguous that the allottee alone is entitled to continue in the premises in Rental Quarters and after the demise of the allottee, the vacant possession is to be handed over to the Board for fresh allotment under the rules in force.

7. Under these circumstances, the writ petitioner is at liberty to submit a fresh application for allotment of Quarters in accordance with the regulations. In the event of receiving any such application from the writ petitioner, the same shall be considered sympathetically and taking note of the family circumstances of the petitioner and other criteria.

8. With these observations, this Court finds that there is no infirmity in respect of the impugned order and the authorities competent are empowered to initiate action for eviction.

9. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
The Tamil Nadu Housing Board,
Anna Salai,
Nandanam,
Chennai - 600 035.

2. The Executive Engineer and Administrative
Officer,
Coimbatore Housing Unit,
Tamil Nadu Housing Board,
Tatabad,
Coimbatore - 641 012.

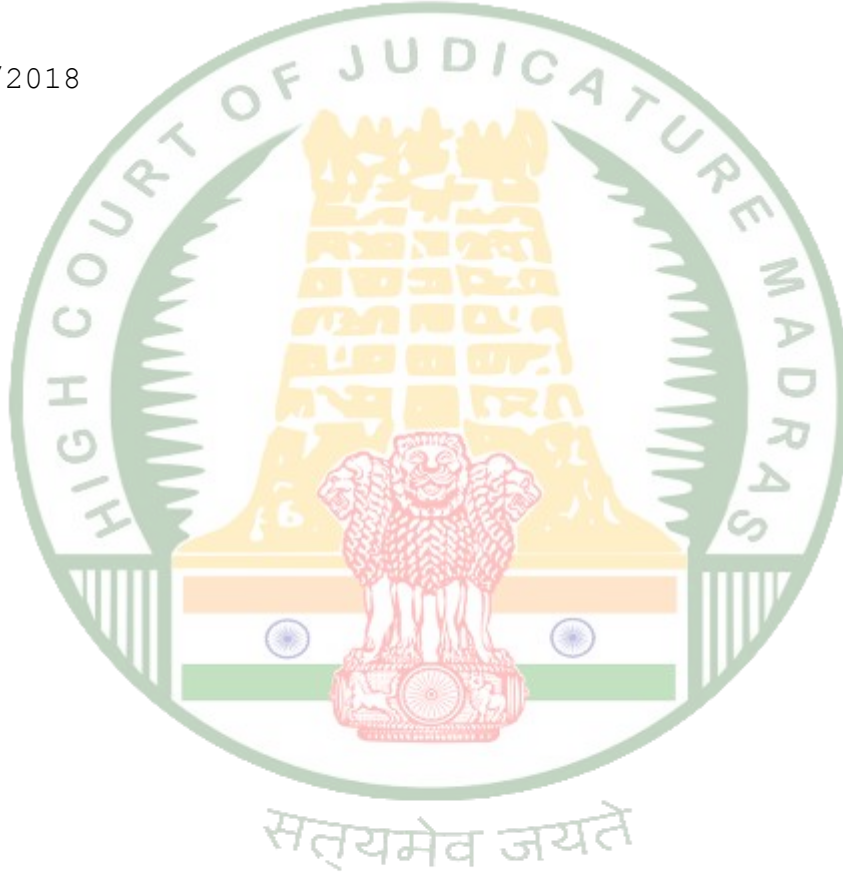
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3.The Commissioner of Police,
Coimbatore - 18.

+1cc M/S.Sai & Bharath, Advocate Sr.72492
+1cc to M/S.V.Anandhamurthy, Advocate Sr.72261
+1cc to the Government Pleader Sr.72432

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srg 12/11/2018



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