

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.Nos.23316 to 23321 and 23399 of 2018
and W.M.P.Nos.27214 to 27224
and 27311 to 27313 of 2018

1. M.PERIYASAMY PETITIONER IN W.P.NO.23316/2018
2. A.PANDIAN PETITIONER IN WP NO.23317 OF 2018
3. K.MARUTHAM PETITIONER IN WP NO.23318 OF 2018
4. T.NANDAKUMAR PETITIONER IN WP NO.23319 OF 2018
5. N.ANANDA NAYAGI PETITIONER in WP No.23320 of 2018
6. MR.T.K.SUNDAR PETITIONER in WP No.23321 of 2018
7. V.K.KUMAR @ V.K.SEKAR PETITIONER in WP No.23399 of 2018

Vs.

1. THE CHAIRMAN,
TAMIL NADU HOUSING BOARD,
NO.331, ANNA SALAI, NANDANAM,
CHENNAI-600 035.
2. THE EXECUTIVE ENGINEER
& ADMINISTRATIVE OFFICER,
TAMIL NADU HOUSING BOARD,
BESANT NAGAR DIVISION,
NO.48, DR.MUTHULAKSHMI SALAI,
ADAYAR,
CHENNAI-600 020.RESPONDENTS IN W.P.NO.23316/2018

1. THE CHAIRMAN
TAMIL NADU HOUSING BOARD,
NO.331 ANNA SALAI,
NANDANAM CHENNAI-600 035.
2. THE EXECUTIVE ENGINEER &
ADMINISTRATIVE OFFICER TAMIL NADU HOUSING
BOARD BESANT NAGAR DIVISION NO.48 DR.
MUTHULAKSHMI SALAI ADAYAR CHENNAI-600 020.

3. PARAMASIVAM

... RESPONDENTS in WP No.23317 of 2018

1. THE CHAIRMAN
TAMIL NADU HOUSING BOARD NO.331 ANNA SALAI
NANDANAM CHENNAI-600 035.

2. THE EXECUTIVE ENGINEER &
ADMINISTRATIVE OFFICER TAMIL NADU HOUSING
BOARD BESANT NAGAR DIVISION NO.48 DR.
MUTHULAKSHMI SALAI ADAYAR CHENNAI-600 020.

3. KARTHIKEYAN

... RESPONDENTS in WP No.23318 of 2018

1. THE CHAIRMAN
TAMIL NADU HOUSING BOARD,
NO.331 ANNA SALAI
NANDANAM CHENNAI-600 035.

2. THE EXECUTIVE ENGINEER &
ADMINISTRATIVE OFFICER TAMIL NADU HOUSING
BOARD BESANT NAGAR DIVISION NO.48 DR.
MUTHULAKSHMI SALAI ADAYAR CHENNAI-600 020.

3. A.MUTHU
4. V.KALATHI CHETTIAR
5. P.N.SESHAMANI

... RESPONDENTS in WP No.23319 of 2018

1. THE CHAIRMAN
TAMIL NADU HOUSING BOARD,
NO.331 ANNA SALAI
NANDANAM CHENNAI-600 035.

2. THE EXECUTIVE ENGINEER &
ADMINISTRATIVE OFFICER TAMIL NADU HOUSING
BOARD BESANT NAGAR DIVISION NO.48 DR.
MUTHULAKSHMI SALAI ADAYAR CHENNAI-600 020.

3. A.KALYANASUNDARAM

... RESPONDENTS in WP No.23320 of 2018

1. THE CHAIRMAN
TAMIL NADU HOUSING BOARD,
NO.331 ANNA SALAI
NANDANAM CHENNAI-600 035.

2. THE EXECUTIVE ENGINEER &
ADMINISTRATIVE OFFICER TAMIL NADU HOUSING
BOARD BESANT NAGAR DIVISION NO.48 DR.
MUTHULAKSHMI SALAI ADAYAR CHENNAI-600 020.

3. A.SATHYAMURTHY

NO.3 TNHB SHOPPING COMPLEX SERVICE LANE
1ST AVENUE BESANT NAGAR CHENNAI-600 090.

... RESPONDENTS in WP No.23321 of 2018

1. THE MANAGING DIRECTOR

TAMILNADU HOUSING BOARD,
NANDANAM CHENNAI 35

2. THE EXECUTIVE OFFICER AND

ADMINISTRATIVE OFFICER,
TAMILNADU HOUSING BOARD
NANDANAM CHENNAI 35.

... RESPONDENTS in WP No.23399 of 2018

Prayer in W.P.No.23316 of 2018 : Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent in Letter No.A.L.15/2054/2016, dated 20.04.2017 and quash the same as illegal, improper, unreasonable, arbitrary and violation of principle of natural justice and direct the respondents to remove the lock and seal put up in the petitioner stall No.23 at T.N.H.B. Shopping Complex, 3rd Avenue, Besant Nagar, Chennai, and handover the same to the petitioner and permit him to continue to running the shop with regular renewal thereto.

Prayer in WP No.23317 of 2018 :

For the reasons stated in the accompanying Affidavit, it is therefore respectfully prayed that this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of the writ, calling for records relating to impugned order passed by the 2nd respondent in letter No. A.L.15/ 2054/2016 dated 20.04.2017 and quash the same as illegal improper, unreasonable, arbitrarily and the violation of principal of Natural Justice and direct the 1 and 2 respondents to remove the lock and seal put up in the petitioner shop No.8 at T.N.H.B. Shopping Complex, 3rd Avenue, Besant Nagar, Chennai and handover the same to the petitioner and permit him to continue to running the shop with regular renewal thereto and pass such further or other order as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP No.23318 of 2018 :

For the reasons stated in the accompanying Affidavit, it is therefore respectfully prayed that this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of the writ, calling for records relating to impugned order passed by

the 2nd respondent in letter No. A.L.15/ 2054/2016 dated 20.04.2017 and quash the same as illegal improper, unreasonable, arbitrarily and the violation of principal of Natural Justice and direct the respondents 1 and 2 to remove the lock and seal put up in the petitioner shop No.5 at T.N.H.B. Shopping Complex, 3rd Avenue, Besant Nagar, Chennai and handover the same to the petitioner and permit him to continue to running the shop with regular renewal thereto and pass such further or other order as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP No.23319 of 2018 :

For the reasons stated in the accompanying Affidavit, it is therefore respectfully prayed that this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of the writ, calling for records relating to impugned order passed by the 2nd respondent in letter No. A.L.15/ 2054/2016 dated 20.04.2017 and quash the same as illegal improper, unreasonable, arbitrarily and the violation of principal of Natural Justice and direct the 1 and 2 respondents to remove the lock and seal put up in the petitioner stall Nos.25, 33 and 34 at T.N.H.B. Shopping Complex, 3rd Avenue, Besant Nagar, Chennai and handover the same to the petitioner and permit him to continue to running the shop with regular renewal thereto and pass such further or other order as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP No.23320 of 2018 :

For the reasons stated in the accompanying Affidavit, it is therefore respectfully prayed that this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of the writ, calling for records relating to impugned order passed by the 2nd respondent in letter No. A.L.15/ 2054/2016 dated 20.04.2017 and quash the same as illegal improper, unreasonable, arbitrarily and the violation of principal of Natural Justice and direct the respondents to remove the lock and seal put up in the petitioner stall No.5 at T.N.H.B. Shopping Complex, 3rd Avenue, Besant Nagar, Chennai and handover the same to the petitioner and permit him to continue to running the shop with regular renewal thereto and pass such further or other order as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP No.23321 of 2018 :

For the reasons stated in the accompanying Affidavit, it is therefore respectfully prayed that this Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of the

writ, calling for records relating to impugned order passed by the 2nd respondent in letter No. A.L.15/ 2054/2016 dated 20.04.2017 and quash the same as illegal improper, unreasonable, arbitrarily and the violation of principal of Natural Justice and direct the respondents to remove the lock and seal put up in the petitioner shop No.3 at T.N.H.B. Shopping Complex, Service Lane, 1st Avenue, Besant Nagar, Chennai and handover the same to the petitioner and permit him to continue to running the shop with regular renewal thereto and pass such further or other order as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

Prayer in WP No.23399 of 2018

For the reasons stated in the accompanying affidavit, it is prayed that this Hon'ble court may be pleased to issue a Writ, order or direction, in particular for issue of a Writ of Mandamus to calling for the records pertaining to the notice No.A.L. 15/2054/2016 dated 20.4.2017 to the shop No. 18-A Tamil Nadu Housing Board, Besant Nagar Shopping Complex, Chennai 90 and quash the same and pass such further or other order as this Hon'ble court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner in : Mr.L.Chandrakumar
W.P.No.23316 to 23321/2018 for M/s.B.Goplakrishnan

For Petitions in WP.23399/18 : Mr.T.Jayaramaraj

For Respondents in : Mr.V.Anandhamurthy
W.P.No.23316 Standing Counsel
and WP.23399 of 2018 & Respondents
1 and 2 in other W.Ps

C O M M O N O R D E R

The orders of the second respondent dated 20.04.2017 are put to challenge in these writ petitions. By virtue of the said order, the second respondent directed the petitioners to vacate the petition mentioned premises enabling the Tamil Nadu Housing Board (in short, "the Board") to demolish and reconstruct the said building, besides directing them to clear the dues.

2. The petitioners claim that the allotments were made between 1980 and 1982 in respect of the petitioners/their predecessors and the present eviction drive caused them and their families much hardship. It is their claim that if they have been given alternative accommodation in the vicinity, they will eke out their lives. It is also submitted that though the impugned orders have been passed on 20.04.2017, no steps have

been taken to demolish the building and since the festive season like Christmas, New Year and Pongal is approaching, till the commencement of the demolition work, they may be permitted at least to do business and they are willing to pay the arrears of rent.

3. The respondent Board filed a common counter-affidavit resisting the claim. It is the claim of the Board that excepting the petitioners in W.P.Nos.23316 and 23399 of 2018, other petitioners before this Court are not even allottees and they have no locus standi to maintain these petitions, that too when there is a specific bar for subletting the premises. Even the petitioner in W.P.No.23316 of 2018 was not in occupation of the shop at the time of causing inspection and the allottees, including the petitioner in W.P.No.23399 of 2018, have been served with notice even on 20.04.2017 and they had been given longer time to vacate the premises.

4. Heard both sides and perused the materials available on record.

5. Admittedly, the petitioners have vacated the premises and they are not in occupation. The respondent Board intends to develop new commercial complex in the subject premises and make outright sale of the shops, which will be beneficial for more number of vendors and the same cannot be stalled for the benefit of few persons. The initiation of suits by the petitioners caused delay in the project and permitting the petitioners to use the shops will cause much more delay, escalating the project cost. It is submitted that there is no alternative site available for allotment to the petitioners in the nearby vicinity. In the given circumstances, there is no merit in the claim of the petitioners.

6. Accordingly, the writ petitions fail and the same are dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

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To

1. The Chairman,
Tamil Nadu Housing Board,
No.331, Anna Salai, Nandanam,
Chennai-600 035.

2. The Executive Engineer
& Administrative Officer,
Tamil Nadu Housing Board,
Besant Nagar Division,
No.48, Dr.Muthulakshmi Salai,
Adayar, Chennai-600 020.

+3cc to Mr.B.Gopalakrishnan, Advocate SR.No.89255

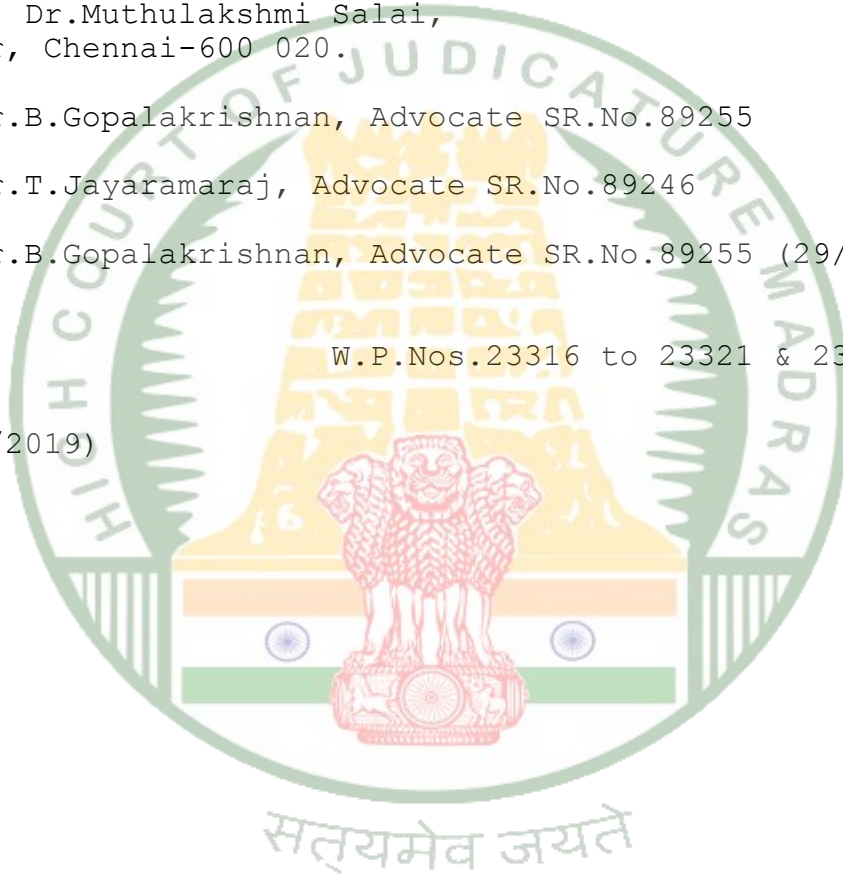
+1cc to Mr.T.Jayaramaraj, Advocate SR.No.89246

+3cc to Mr.B.Gopalakrishnan, Advocate SR.No.89255 (29/01/2019)

W.P.Nos.23316 to 23321 & 23399 of 2018

AK(CO)

GMV (08/01/2019)



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