

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

W.A.No.2207/2013

in

MP.No.1/2013

in

WP.No.24658/2013

S.M.H.Preran

Appellant

Vs

The Revenue Officer
The Tamil Nadu Housing Board
No.493, Anna Salai,
Nandanam, Chennai-35.

Respondent

Prayer:- Writ Appeal filed under section 15 of the Letters Patent against the order dated 07.10.2013 in MP.No.1/2013 in WP.No.24658/2017.

WP.No.24658/2017:

Writ Petition filed under Article 226 of the Constitution of India, praying that pleased to stay the operation of the impugned order dated 10.06.2013 bearing No.2/44189/2012 pending disposal of the above Writ Petition NO.24658/2013.

For Appellant : Mr.Mohammed Fayaz Ali

For Respondent : Mr.V.Anandhamurthy

JUDGMENT

[Judgment of the Court was made by M.SATHYANARAYANAN, J.]

By consent, the writ appeal is taken up for final disposal.

2 The wife of the appellant/writ petitioner, viz., Tmt.Hanifa Bee, was granted Public Quota allotment vide proceedings dated 22.08.1983 and she died on 02.10.2011 and according to the appellant/writ petitioner, after the demise of

his wife, he continued to reside in the premises bearing Door No.R1-12, Lloyds Colony, Royapettah, Chennai-14, along with his son and daughter and is also paying the rents regularly to the respondent. However, to his shock and surprise, a Show Cause Notice dated 24.12.2012 was issued to his deceased wife to show cause as to why she should not be evicted from the premises for the reason that it has been kept under lock and seal. The appellant/writ petitioner also submitted a detailed response dated 22.01.2013, stating among other things that the said property is being put to use for residential purpose and not at all put under lock and however, without properly considering the same, the respondent has issued the impugned proceedings dated 10.06.2013, calling upon the appellant/writ petitioner to vacate and deliver vacant possession of the premises within thirty days from the date of receipt of the same and challenging the same, he filed writ petition and pending disposal of the same, also filed MP.No.1/2013 praying for stay of all further proceedings.

3 The learned Judge, vide impugned order dated 07.10.2013, had dismissed the petition for stay on the ground that the impugned proceedings dated 10.06.2013 appears to be the continuation of the earlier proceedings dated 21.07.1997 and in respect of which, no reference has been made in the affidavit filed in support of the writ petition and therefore, dismissed the petition for stay and challenging the same, the present writ appeal has been filed.

4 The writ appeal was entertained on 12.11.2013 and by a speaking order, an interim order of status quo was granted on that day till 04.12.2013 and according to the learned counsel for the appellant as well as the learned Standing counsel appearing for the respondent, the appellant continues to remain in the premises. It is also the submission of the learned Standing counsel for the respondent that the matter in issue is also squarely covered by the judgment dated 04.02.2015 made in WA.No.1722/2012, wherein it has been held that the LR's of the allottee, who has been given accommodation under public quota, are not entitled for such a benevolence.

5 The Court has considered the rival submissions and also perused the materials placed before it.

6 This Court has taken into consideration of the fact that the writ appeal has been preferred against the dismissal of the petition for stay and pending disposal of the writ appeal, the appellant/writ petitioner is having the benefit of the interim orders for nearly five years, is of the considered view that the main writ petition is to be given disposal.

7 In the result, the writ appeal is allowed and the impugned order dated 07.10.2013 made in MP.No.1/2013 in

WP.No.24658/2017 is set aside and there shall be an order of status quo prevailing as on 12.11.2013, till the disposal of the writ petition.

8 In the light of the submission made by the learned Standing counsel for the respondent that the issue involved is squarely covered by the judgment dated 04.02.2015 made in WA.No.1722/2015, the Registry is directed to accord topmost priority and list the writ petition for final disposal before the concerned Roster Bench. However, it is made clear that till the disposal of the writ petition, the appellant/writ petitioner and anybody claiming through him, shall not create any third party rights in respect of the premises in question. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

AP

To

The Revenue Officer
The Tamil Nadu Housing Board
No.493, Anna Salai,
Nandanam, Chennai-35.

Copy to:

The Section Officer,
Writ Section,
High Court, Madras.(for information & appropriate action)

+1cc to Mr.Mohammed Fayaz Ali, Advocate sr.no.58674
+1cc to Mr.V.Anandhamurthy, Advocate sr.no.58582

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W.A.No.2207/2013

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