

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P. No.11519 & M.P.No.1 of 2013
W.P.No.14421 of 2013 & M.P.No.3 of 2013 & 1 of 2015

Race Course Veetu Vasadhi,
Variya Vadagai Kudiyirupor Nala Sangam,
Regn.No.28/2013,
Represented by its President,
SP & SE Compound,
2/35, Thomas Park,
Race Course, Coimbatore - 641 018. ... Petitioner in
W.P.No.11519 of 2013

1.K.Krishnaveni
2.R.Sivakumar
3.D.Kavitha
4.C.P.Murugesan
5.T.Valarmathi
6.D.Ravi
7.S.Meenakshi
8.S.Padmini
9.P.Muthu Mohan Raj
10.P.Ramakrishnan
11.T.Premalatha
12.C.Murali
13.M.Rajendran
14.D.Prince
15.P.S.Mahalakshmi
16.N.Anitha
17.S.Easwari
18.R.Revathi Rani
19.S.Sreedevi
20.L.Felix
21.R.Nagalakshmi
22.R.Nagammal

.. Petitioners in
W.P.No.14421 of 2013

Vs.

1.Government of Tamil Nadu,
Represented by its Secretary,
Housing & Urban Development Department,
Fort St. George, Chennai - 600 009.

2.Tamil Nadu Housing Board,
Represented by its Chairman,
Nandanam, Chennai - 600 035.
both W.Ps.

.. Respondents in

3.The District Collector,
Coimbatore District,
Coimbatore.

.. 3rd respondent in
W.P.No.14421 of 2013

4.The Executive Engineer-cum-Administrative Officer,
TNHB, Coimbatore Housing Unit,
Tatabad, Coimbatore - 641 012.
Tamil Nadu.

.. 3rd respondent in
W.P.No.11519 of 2013 &
4th Respondent in
W.P.No.14421 of 2013

Prayer in W.P.No.11519 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration to declare that G.O.(Ms)No.279, dated 01.12.210 issued by the first respondent read with the Public Notice, dated 28.03.2013 issued by the third respondent is illegal and unconstitutional, to the extent they direct eviction from and demolition of the quarters occupied by the petitioner's members / petitioners at SE & SP Compound, Race Course Road, Coimbatore and consequently direct the respondents not to evict the petitioners without providing equal alternative accommodation in the same place.

Prayer in W.P.No.14421 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration to declare that G.O.(Ms)No.279, dated 01.12.210 issued by the first respondent herein read with the Public Notice, dated 28.03.2013 issued by the fourth respondent is illegal and unconstitutional, to the extent they direct eviction from and demolition of the TNHB quarters occupied by the petitioners at Gandhipuram, Cimbatore and consequently direct the respondents not to evict the petitioners without providing equal alternative accommodation.

For Petitioner : No appearance (W.P.No.11519 of 2013)
Mr.G.Sankaran for W.P.No.14421 of 2013

For Respondents
in both W.Ps.' : Mr.V.Shanmuga Sundar

Special Government Pleader for R1 & R3
in W.P.No.14421 of 2013 & first respondent in
W.P.No.11519 of 2013

Mr.S.R.Rajagopal
Additional Advocate General
Assisted by
Mr.V.Anandamurthy for R2 & R3 in
W.P.No.11519 of 2013 & R2 & R4
in W.P.No.14421 of 2013

C O M M O N O R D E R

These Writ Petitions have been filed to declare that G.O.Ms.No.279, dated 01.02.2010 issued by the first respondent is illegal and unconstitutional and for consequential direction to the respondents not to evict the petitioners without providing equal alternative accommodation.

2. The Tamil Nadu Housing Board had built about 1642 quarters in Coimbatore area in the year 1976 and 1977. The structural stability and the present status was directed to be done by the Technical Committee. The Committee consisting of the District Collector, Coimbatore; Structural Consultant, Professor in Coimbatore Institute of Technology; Executive Engineer, PWD, Coimbatore; Superintending Engineer, Tamil Nadu Housing Board and the Executive Engineer & A.D.O, Housing Unit, Coimbatore conducted joint inspection and gave reports.

3. A report in respect of 402 flats at Race Course reads as follows:-

"The Technical Committee has already inspected the Race Course Colony on 23.12.2014 and recommended that the flats are badly damaged beyond repairs and exhibit further deterioration. The flats are in a condition that it is unsafe for occupation. Also as per the revised seismic map of India, now Coimbatore is in Zone-III which can experience seismic activities. In that case, the stability of the structures in the below mentioned flats will not stand even a small amount of vibrations due to seismic activities."

4. In the report with regard to 378 flats at Race Course Road, it has been stated that "since the calculations clearly indicate unsoundness of the structure it is recommended the structure may be demolished." and in respect of 84 flats it has also been stated that "since the calculations clearly indicate unsoundness of the structure it is recommended the structure may be demolished."

5. In pursuance of the reports of the Technical Committee, dated 27.01.2010, the Government issued the impugned G.O., thereby directing the occupants to vacate the premises to enable the Housing Board to demolish and put up new construction.

6. The impugned G.O. is sought to be quashed on the grounds that the decision was arbitrary, the reports of the Technical Committee is not in respect of the entire flats and the respondents have decided to utilize the same for commercial purpose.

7. Mr.G.Sankaran, learned counsel for the petitioners in W.P.No.14421 of 2013 submitted that the Writ Petition has been filed on behalf of the occupants of the tenements in Gandhipuram Housing Unit and out of 22 petitioners, except 9, others have already been vacated. The G.O. came to be issued only to utilize the land for commercial purpose and the representations of the petitioners to provide alternative accommodation was not considered. It is the contention of the learned counsel that the Government is not expected to act like a private individual and the larger interest of the Government Servants was not taken into consideration.

8. Per contra Mr.S.R.Rajagopal, learned Additional Advocate General submitted that the constructions of the flats had taken place in the year 1965 and the Technical Committee, pursuant to the order of the first respondent, had conducted inspection and gave reports stating that structural soundness of the buildings in Gandhipuram Housing Unit and Race Course Unit are very weak and recommended for demolition. It is further submitted that only based on the reports, the impugned G.O. has been issued and the tenements have been served with individual notices to vacate the same to enable the Housing Board to the demolish the structure.

9. It is further contended by the learned Additional Advocate General that the Reports would show that the buildings require immediate demolition and if any untoward incident happens, the respondents would be held responsible; that the construction of flats at Kavundampalayam is almost completed and about 2000 Government Servants could be accommodated in the complex and that if the petitioners approach the respondents for alternative accommodation, the same would be considered. The members of the petitioner-Association are only tenants and they have no legal right to challenge the decision of the Government to demolish the superstructure on the ground of instability and even if the property for commercial purpose.

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

11. The reports of the Technical Committee, dated 27.01.2010 extracted above and the photographs annexed in the typed set filed by the respondents would establish that the buildings in both the Housing Units are in a precarious condition. As rightly argued by the learned Additional Advocate General the buildings may collapse at any time and in that event, they would be more causality.

12. In (2016) 7 SCC 615 [NIDHI KAIM V. STATE OF M.P.], the Hon'ble Apex Court has observed that the Court does not have necessary technical expertise to interfere with the decision of Expert Committee and the Court shall not act as appellate Court over the decision of examining body / Expert Committee.

13. Though it is contended by the learned counsel for the petitioners that by the impugned G.O., the respondents have intended to use the land for commercial purpose, but no supporting materials have been produced in support of their allegation. Hence, I do not find force in the contentions of the learned counsel for the petitioners.

14. In such view of the matter, I find no valid ground to quash the impugned G.O. The Writ Petitions fail and they are dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Government of Tamil Nadu,
Housing & Urban Development Department,
Fort St. George, Chennai - 600 009.

2.The Chairman,
Tamil Nadu Housing Board,
Nandanam, Chennai - 600 035.

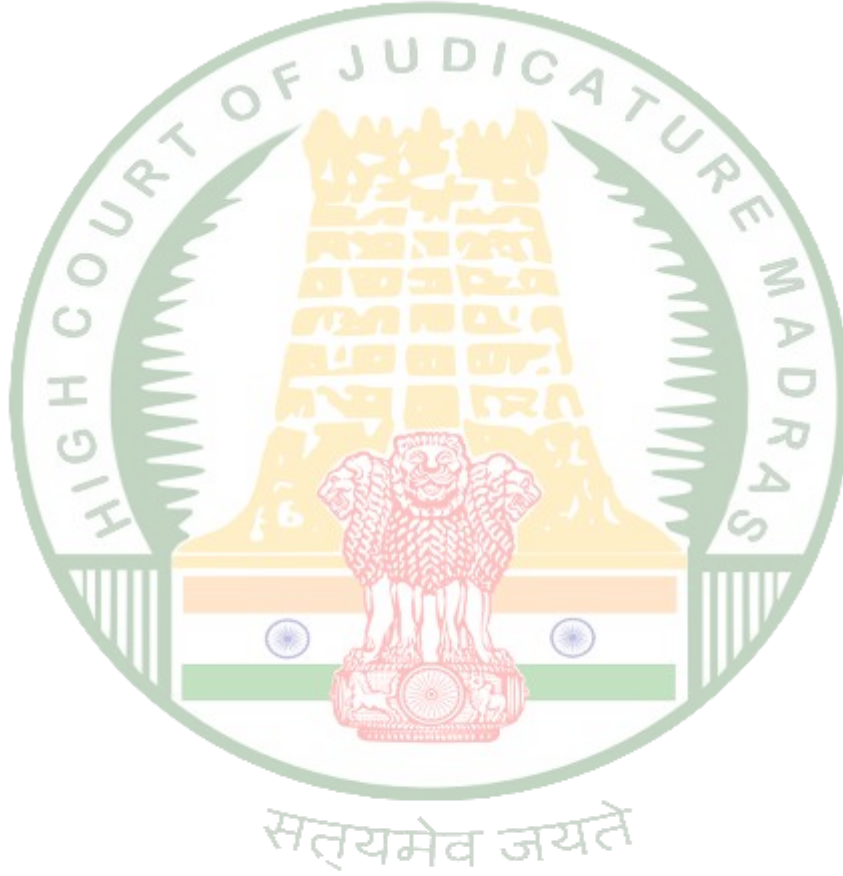
3.The District Collector,
Coimbatore District,
Coimbatore.

4.The Executive Engineer-cum-Administrative Officer,
TNHB, Coimbatore Housing Unit,
Tatabad, Coimbatore - 641 012.
Tamil Nadu.

+1cc to Mr.V.Anandhamurthy, Advocate, S.R.No.48665

+1cc to the Government Pleader, S.R.No.49350

SS(CO)
GSP(06/08/2018)



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