

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. No. 3119 of 2014
and
M.P.No.1 of 2014

Mrs.Rathinamala

... Petitioner

Vs.

1. The Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009
2. The Tamil Nadu Housing Board Ltd.,
rep. by its Chairman,
493, Anna Salai, Nandanam,
Chennai - 600 035.
3. The Revenue Officer,
Tamil Nadu Housing Board Ltd.,
493, Anna Salai, Nandanam,
Chennai - 600 035

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus calling for the entire records relating to letter no.9038 / Ni. A. 4(1) / 2012-5 by the first respondent dated 06.01.2014 in confirming the order of cancellation passed in proceedings No.VaVaP.2/1824/12 on the file of the third respondent dated 30.03.2012 and to quash the same and consequently direct the respondent to consider the lawful claim of the petitioner to allot the premises in Flat No.C6, Lloyds Estates, Chennai-14.

For Petitioner : Mr.A.Aruldoss

For Respondent : Mr.V.Anandhamurthy,
Senior Counsel, for R2 and R3

: Mr.V.Prabhu,
Gov. Advocate, for R1.

O R D E R

This writ petition has been filed challenging the order passed by the first respondent dismissing the appeal filed by the petitioner against the order passed by the second respondent, Tamil Nadu Housing Board, to vacate the premises.

2. The petitioner's father one Viswanathan was allotted with the house at No.C6, Lloyds Estates (colony), Chennai, belongs to the second respondent, Housing Board, under the public quota, on a monthly rental basis in the year 1979. The said original allottee Viswanathan died on 19.07.2010 . Hence, the second respondent Housing Board issued a notice under Section 84, of the Tamil Nadu Housing Board Act, cancelling the allotment order made in favour of the deceased Viswanathan and asked the petitioner to vacate the premises and handed over the same to the Housing Board. Challenging the said order, the petitioner had filed an appeal before the first respondent and the first respondent also dismissed the appeal holding that since the original allottee died, the legal heirs are not entitled to continue the possession of the property. Now, challenging the above order, the present writ petition has been filed.

3. The learned counsel appearing for the respondent submitted that the Board has already taken a decision in the year 1997 not to transfer the allotment in favour of the legal heirs after the death of the original lessee. If the original allottee died, the legal heirs of the original allottee has no right to continue in possession. In the above circumstances, the order has been passed under Section 84 of the Tamil Nadu Housing Board Act. The learned counsel also relied upon the judgment of the Division Bench of this Court in W.A.No.1722 of 2012, dated 04.02.2015, wherein, the decision taken by the Tamil Nadu Housing Board not to transfer the allotment under the Public category to the legal heirs of the original allottee has been upheld.

4. I have considered the rival submissions and perused the materials available on records carefully.

5. Admittedly, the allotment was made to the father of the petitioner. After the demise of the original allottee, as per the Board proceedings, the petitioner being the legal heir of the original allottee is not entitled to get the transfer of the allotment order in his favour. In the above circumstances, the impugned order has been passed, and, there is no illegality or irregularity in the order passed by the authorities.

6. However the learned counsel appearing for the petitioner submitted that the petitioner being a lady, who is residing there for long time, now not able to find suitable accommodation immediately, and seeks time till 31.05.2019 to vacate the premises and she has also filed an affidavit of undertaking to that effect.

6. Considering the above facts and circumstances and the request made by the petitioner that the petitioner being a lady and she is in possession of the property alone. Considering the undertaking filed by the petitioners, she may be permitted to occupy the premises till 31.05.2019.

7. In the result, this writ petition is dismissed. The respondent is directed to permit the petitioner to be in possession of the premises till 31.05.2019. The petitioner is directed to vacate the premises on or before 31.05.2019. If the petitioner fails to vacate the premises, it is always open to the respondent to take steps to evict the petitioner without any notice whatsoever. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Secretary to Government,
Housing and Urban Development Department,
Government of Tamil Nadu,
Fort St.George, Chennai - 600 009
2. The Chairman, Tamil Nadu Housing Board Ltd.,
493, Anna Salai, Nandanam, Chennai - 600 035.
3. The Revenue Officer,
Tamil Nadu Housing Board Ltd.,
493, Anna Salai, Nandanam, Chennai - 600 035

+1 cc to Mr.A.Aruldoss, Advocate SR.No.79657
+1 cc to The Government Pleader, SR.No.80505 & 79935
+1 cc to Mr.V.Anandhamurthy, Advocate SR.No.80056

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CSL/19.02.2019