

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24368 of 2007

B.Vijayal

... Petitioner

Vs.

- 1.The Commissioner & Secretary
to the Government of Tamilnadu,
Housing & Development Department
St. George Fort, Chennai.
- 2.The Executive Engineer and
Administrative Officer,
Tamilnadu Housing Board,
Salem Housing Unit,
Salem-9.
- 3.The Assistant Commissioner of Police
Salem-7.
- 4.The Inspector of Police (L & A)
Hasthampatty,
Salem.
- 5.The Sub-Inspector of Police
Hasthampatty,
Salem.
- 6.The Village Administrative Officer
Hasthampatty,
Salem.

... Respondents

(R3 to 6 are Impleaded vide the order of this Court in M.P.No.2 of 2007 in W.P.No.24368 of 2007 dated 21.11.2017.)

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus to call for the records pertaining to the letter of second respondent in Letter No. C3/9538/84 dated 06.07.2007 and quash the same.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.K.Ravikumar for R1
Additional Government Pleader
M/s.V.Anandha Murthy for R2
Senior Counsel

O R D E R

The petitioner has filed the writ petition challenging the letter No.C3/9538/84 dated 06.07.2007, issued by the first respondent/Housing Board, seeking police protection to evict the petitioner from the property on 19.07.2007 allotted by the Housing Board.

2.The case of the petitioner is that initially lease was granted to the petitioner in respect of the land measuring to an extent of 1152 sq.ft. Thereafter, the dispute has arisen between the Housing Board and the petitioner in respect of rent for the same property. The 2nd respondent issued a notice dated 30.10.2001 calling upon the petitioner to pay an amount of Rs.70,538/- towards enhanced rent. Aggrieved over the same, the petitioner has already filed a suit in O.S.No.907 of 2001 on the file of the Principal District Munsif, Salem, for declaration declaring the notice of the 2nd respondent dated 30.10.2001 as null and void, and also for permanent injunction. The said suit was decreed as prayed for in favour of the petitioner. Aggrieved over the same, the Housing Board has preferred an appeal in A.S.No.38 of 2004 before learned Additional Subordinate Court, Salem, and on 29.10.2004 the said appeal was partly allowed in respect of relief of declaration and it confirmed the relief in respect of injunction from evicting the petitioner from the premises except under due process of law. Challenging the judgment made in the appeal, the petitioner has filed the Second Appeal in S.A.No.891 of 2005 before this Court, along with a stay petition in C.M.P.No.13402 of 2005. This Court by order dated 07.08.2006 dismissed the said stay petition stating that already injunction was confirmed by the lower appellant Court. Thereafter, the 2nd respondent has issued the impugned letter dated 06.07.2007 seeking police protection to evict the petitioner from the subject premises on 19.07.2007. Hence, the petitioner has come forward with the present writ petition.

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

4.As submitted by the learned counsel for the petitioner, while dismissing the stay petition filed by the petitioner in the Second Appeal, this Court has made it clear that the

petitioner shall be evicted only under due process of law.

5. Under such circumstances, the prayer sought for by the petitioner in the present writ petition cannot be entertained. The petitioner is at liberty to work out his remedy in the manner known to law. Accordingly, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

gmd

To

1. The Commissioner & Secretary
to the Government of Tamilnadu,
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St. George Fort, Chennai.
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Hasthampatty, Salem.
5. The Sub-Inspector of Police
Hasthampatty, Salem.
6. The Village Administrative Officer
Hasthampatty, Salem.

+1cc to M/s.V.Anandha Murthy, Advocate, S.R.No.46769
+1cc to Mr.C.K.M.Appaji, Advocate, S.R.No.47004
+1cc to the Government Pleader, S.R.No.47561

W.P.No.24368 of 2007

CS/05/09/18