

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.15804 of 2006
and W.P.M.P. No.15561 of 2006**

N.Ranjit Kumar

... Petitioner

Vs.

1.The Secretary,
Government of Tamil Nadu,
Housing & Urban Development department,
Fort St. George, Chennai-9.

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

3.The Executive Engineer &
Administrative Officer,
Housing Unit, Coimbatore.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the third respondent dated 04.05.2006 bearing Lr.No.A5/14004/04 and quash the same and consequently forbear the respondents, their men and agents from in any manner trying to evict the petitioner from the premises bearing Flat No.A3, L.I.G. Colony, Door No.75, Punniyakoti Mudaliar Street, R.S.Puram, Coimbatore except by following the due process of law.

For Petitioner : Mr.K.Venkatasubban for
M/s.Sarvabhauman Associates

For Respondents : Mr.Nandakumar, TNEB

ORDER

The petitioner has filed this writ petition challenging the order dated 04.05.2006 bearing Lr.No.A5/14004/04 passed by the third respondent and consequently forbearing the respondents from in any manner trying to evict him from the premises bearing Flat No.A3, L.I.G. Colony, Door No.75, Punniyakoti Mudaliar Street, R.S.Puram, Coimbatore except by following the due process of law.

2.The case of the petitioner is that he is a power agent and he has applied for allotment of the L.I.G. Flat of the 2nd respondent. The third respondent by his order dated 07.05.1999, had allotted an apartment No.A3 in the first floor of the L.I.G. Housing Scheme at R.S.Puram, Coimbatore to the petitioner on a monthly rent of Rs.200/- together with a sum of Rs.4/- towards water charges. As per the terms of allotment, rents to be paid on or before 10th of every succeeding month and the late payments would attract penal interest at the rate of 18%. The allottee was prohibited from subletting the building and in the event of he or she vacating the premises, they were required to given a 21 days advance notice or 21 days rent in lieu thereof. With the terms of the allotment letter dated 07.05.1999, the petitioner's son had paid the rental deposit and electricity deposit together with a month's rent in advance for which he was issued a duly discharged

receipt. While this is so, the possession was not handed over by the respondents. Aggrieved by the same, the petitioner's son had filed a Writ Petition in W.P. No.16988 of 1997 seeking a direction to the respondents to hand over possession of the above Flat. This Court by order dated 14.06.1999 had directed the respondents to pass final order and hand over possession and keys of the Apartment within a period of one week.

3. Although the above Flat was allotted to his son, a notice dated 05.08.2004 was issued to him by the third respondent calling upon him to vacate the property on an allegation that he has been keeping the above property vacant. Thereafter, the petitioner approached this Court by way of filing a Writ Petition in W.P. No.27406 of 2004 forbearing the respondents from evicting the petitioner from the premises. This Court, by order dated 11.02.2006 has disposed of the petition directing the respondents to follow the procedure established under law in case they decide to dispossess the petitioner from the premises. In spite of the same, the second respondent has issued a notice dated 04.05.2006 directing the petitioner to hand over the premises to the third respondent on or before 26.05.2006. Pursuant to the same, the third respondent has issued a notice dated 05.08.2004 calling upon the petitioner to vacate the premises. Challenging the

same, he is before this Court.

4.A perusal of the order dated 11.02.2006 in W.P. No.27406 of 2004 shows that the respondents were directed to follow the procedure established under the Tamil Nadu Housing Board Act. In spite of the same, the respondents without understanding the said order, has mechanically passed the impugned order stating that as directed by this Court the petitioner to vacate the premises and hand over the same to them. As the impugned order has been passed without application of mind and not even following the said Act, the same is quashed. This writ petition is accordingly allowed. Allowing this petition will not stand on the way of the respondents to follow the due process of law for evicting the petitioner from the premises if there is any ground available to evict him from the premises. No costs. Consequently, the connected miscellaneous petition is closed.

सत्यमेव जयते

20.04.2018

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Speaking Order/Non Speaking Order
Index: Yes/ No

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To

1.The Secretary,
Government of Tamil Nadu,
Housing & Urban Development department,
Fort St. George, Chennai-9.

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

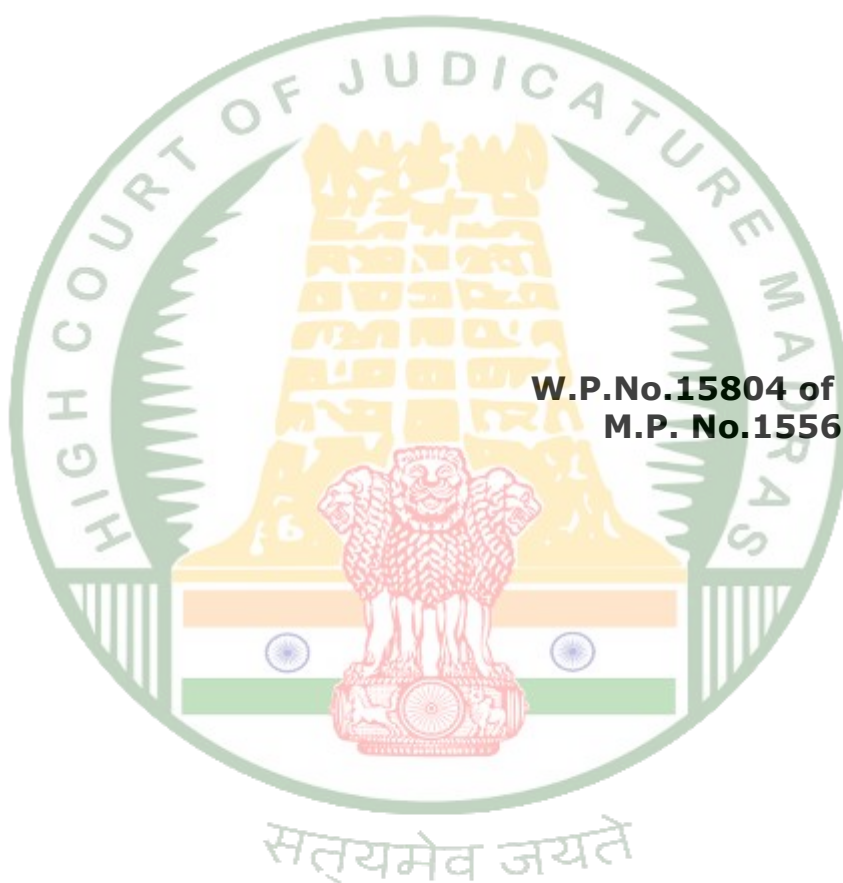
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M.DHANDAPANI,J.

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