

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.28470 of 2017
and
WMP.No.30575 of 2017

V.Kumaravelan

.. Petitioner

Vs

- 1.State of Tamil Nadu
Rep. by its Principal Secretary to Government
Housing and Urban Development Department
Secretariat, Chennai-600 009.
- 2.The Managing Director
Tamil Nadu Housing Board
Anna Salai, Nandanam,
Chennai-600 035.
- 3.The Executive Engineer cum Administrative Officer
Nandanam Division
Tamil Nadu Housing Board
Chennai-600 035.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 & 2 to consider the representation dated 11.10.2017 preferred by the petitioner for an allotment of any one of the vacant rental flats of the 2nd respondent situated at No.96, Kilpauk Garden, Chennai-10 or in any other area in the city of Chennai and till then, not to evict the petitioner from the present place i.e. Flat No.10-B, New Tower Block, Nandanam, Chennai.

For Petitioner : Mr.V.Elangovan

For Respondents : Mr.E.Balamurugan
Special Government Pleader for R1

Mr.D.R.Arun Kumar
for Mr.V.Anandamoorthy for R2 & R3

O R D E R

The petitioner seeks for mandamus directing the respondents 1 & 2 to consider the representation dated 11.10.2017, wherein and whereby, the petitioner sought for allotment of any one of the vacant rental flats of the 2nd respondent situated at No.96, Kilpauk Garden, Chennai-10 or in any other area in the city of Chennai and till then, not to evict the petitioner from the present place i.e. Flat No.10-B, New Tower Block, Nandanam, Chennai.

2. Heard both sides.

3. It is seen that the petitioner was allotted a Flat No.10-B, New Tower Block, Nandanam, Chennai on monthly rental basis on 16.11.2000. It is further seen that the third respondent issued a notice dated 01.12.2016 stating that the Tamil Nadu Housing Board has decided to demolish the entire building and construct new building with a direction to the petitioner to vacate the premises. Similar notices were issued to the petitioner on 07.06.2017 and 29.08.2017. Thereafter, the petitioner made a representation to the respondent on 11.10.2017, seeking for alternative accommodation in the event of vacating him from the allotted flat. Since the said representation has not been considered, the petitioner approached this Court and filed the present writ petition.

4. The learned counsel for the Tamil Nadu Housing Board submitted that the petitioner is not entitled to seek for retention of his premises, either as a matter of right or for granting an alternative accommodation in the event of vacating the premises. He further contended that similar issue was considered by the Division Bench of this Court in WA.No.1875 of 2018, wherein an order was passed on 28.08.2018, holding that the appellant therein cannot insist for retention of the premises as a matter of right. Even, in respect of the petitioner's request for providing an alternative allotment, the learned counsel submitted that the said request was already rejected by the Government, which fact is evident from the letter No.25106/HB2(2)/2017-6 dated 23.08.2018 addressed by the Principal Secretary to Government, Housing and Urban Development Department, to the Government Pleader, High Court, Madras.

5. The learned counsel for the petitioner, however, submitted that till this date, the petitioner has not received any such communication rejecting his request.

6. It is seen that the Division Bench of this Court has already considered the issue as to whether the tenants have any vested right to retain the premises as a matter of right, even though the Board decided to demolish and reconstruct. The order in WA.No.1875 of 2018 dated 28.08.2018 passed by the Division Bench of this Court, wherein, at Paragraph No.3, it is observed as follows:

3. It appears that the tenants had filed the writ petition for deferring the decision of the respondent-authorities in demolishing the buildings and provide for alternative accommodation. It further appears that the learned Single Judge, having appreciated the factual aspects and the condition of the building and the requirement for demolition of the same and also on some undertaking by the parties concerned, had extended the time limit for vacating the premises by the members of the appellant-association itself by the end of August 2018. While so, the present claim of the appellant-association that it is in middle of the academic year, they find it some difficulty in vacating the premises, cannot be entertained especially, when the building is found in a dilapidated condition requiring either demolition or major repair which would undoubtedly involve some risk. Therefore, the appellant cannot insist for their retention in the premises as a matter of right. However, to give some breathing time and to enable the tenants to find some alternative accommodation, the time for vacating the premises is extended upto the end of October 2018.

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7. Therefore, this Court is of the view that the petitioner is not entitled to seek for retention of his premises. Even otherwise, it is stated by the learned counsel for the petitioner that the petitioner has already surrendered his flat. But the only question to be considered and decided is whether the petitioner is entitled for providing alternative accommodation to him. Now, it is stated by the Housing Board that the petitioner's request is rejected by the Government. If that is the case, the Government can communicate the said order to the petitioner so as to enable him to challenge the same in the manner known to law.

With the above observation, this writ petition is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development Department
Secretariat, Chennai-600 009.
 2. The Managing Director
Tamil Nadu Housing Board
Anna Salai, Nandanam,
Chennai-600 035.
 3. The Executive Engineer cum Administrative Officer
Nandanam Division
Tamil Nadu Housing Board
Chennai-600 035.
- +1 cc to Mr.V.Anandha Murthy, Advocate Sr.No.81885
+1 cc to Mr.S.Doraisamy, Advocate Sr.No.81922
+1 cc to The Government Pleader, Sr.No.82263

W.P.No.28470 of 2017

SSI (CO)
CSL/18.12.2018

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