

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2018

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P. RAJAMANICKAM

W.A.No.2627 of 2018
and CMP.No.21408 of 2018

Tmt. Ramalakshmi Nagarajan

...Appellant

Vs

1. State of Tamil Nadu,
rep. by Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. Tamil Nadu Housing Board,
Rep. by its Chairman and Managing Director
No.331, Anna Salai, Nandanam,
Chennai - 600 035.
3. The Authorised Officer / Chief Revenue Officer,
Tamil Nadu Housing Board,
No.331, Anna Salai, Nandanam,
Chennai - 600 035.
4. The Executive Engineer / Executive Officer,
Tamil Nadu Housing Board,
Anna Nagar Division,
Thirumangalam,
Chennai - 600 101.
5. The Inspector of Police,
Law and Order,
T.P. Chatiram Police Station,
Chennai - 600 010

...Respondents

PRAYER:- Writ Appeal filed under clause 15 of the Letter Patents against the order passed by this Court dated 03.08.2018 made in W.P.No.18320 of 2018.

W.P.No.18320 of 2018:

To issue a Writ, order or direction in the nature of a Writ more specifically a Writ of Mandamus , forbearing the respondents 1 - 4 from evicting the petitioner from Flat No.Q-4 96 Tamilnadu Government Rental Housing Scheme Kilpauk Garden Colony Chennai-600 010 and consequently direct respondents 1 - 4 to provide alternate accommodation for the petitioner based on the representation dated 28.06.2018.

For Appellant : Mr.C.Vediappan
for M/s.C.S.Associates

For Respondents : Mr.V.Anandamurthy, Standing counsel
for R1 & R4
Mr.A.Ansar, for R1 & R5

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.,]

The appellant is the writ petitioner and he along with Thiru.P.Ravisankar, Thiru.S.Viswanathan, Thiru.K.Mathialagan, Tmt.Kaladevi had filed W.P.Nos.18320 to 18324 of 2018, praying for issuance of a Writ of Mandamus, forbearing the respondents 1 to 4 from evicting the petitioners from Flat Nos.Q-4-96, Q-3-96, B-3-96, R-5-96 and M-2-96 of Tamil Nadu Government Rental Housing Scheme, Kilpauk Garden Colony, Chennai - 600 010 with the consequential direction, directing them to provide alternate accommodation to them based on the representation dated 28.06.2018.

2. The said writ petition, after contest, came to be dismissed, vide order dated 03.08.2018 and challenging the dismissal of W.P.Nos.18320 to 18324 of 2018, the present appeal is filed.

3. The learned counsel appearing on behalf of the appellant / writ petitioner would submit that her husband namely Thiru.Nagarajan, was a Government servant and the flat was originally allotted to him and thereafter it was allotted under discretionary quota, in favour of the appellant, as she being a social worker. She continue to reside along with her family right from the year 2004 and all of a sudden, without any justification, the said allotment sought to be cancelled, followed by manifold increase of rent and challenge made to the eviction notice dated 13.04.2018 came to be dismissed by the learned Single Judge, vide impugned order, without assigning proper reasons and hence prays for interference.

4. Per contra, Mr.V.Anandamurthy, learned Standing counsel accepts notice on behalf of the respondents 2 to 4 would submit that one of the petitioners in the common order namely Mr.P.Ravishankar / petitioner in W.P.No.18321/2018 has filed Writ Appeal in W.A.No.2583/2018, challenging the very same order dated 03.08.2018 and it came to be dismissed on 28.11.2018. The learned Standing counsel appearing for the respondents 2 to 4 on instructions would submit that since the building has become dilapidated, a fair decision has been taken to cancel the allotment and in so far as the Government servant on rental scheme is concerned, alternate accommodation is given and since the appellant / writ petitioner has been accommodated under the discretionary quota, she is not entitled for alternate accommodation and would further add that in the event of this writ appeal being entertained and interim orders being granted, the appellant / petitioner is to live in the premises at her own risk and her family members are to live in the said premises at their own risk and peril and prays for dismissal of this writ appeal.

5. This Court has considered the rival submissions and also perused the materials placed before this Court.

6. A perusal of the affidavit filed in support of the writ petition would disclose that though the petitioner claims that she is a social worker, the details of the work done by her under the said category have not been disclosed. Be that as it may, the premises under her occupation became dilapidated and taking note of the same, the Tamil Nadu Housing Board took a conscious decision to demolish the said superstructure. It is to be remembered at this juncture that the petitioner has been allotted the premises under discretionary quota, subject to certain conditions and she cannot claim perpetual right and compensation under the garb of said allotment under discretionary quota. Even otherwise, the premises in occupation of the appellant, had become highly dilapidated and if she takes conscious decision to live in the same premises along with her family, there is a likelihood of danger to the lives and the properties.

7. The learned Single Judge has rightly taken note of the fact that the Government also took a policy decision to scrap the discretionary quota and as of now there is no such quota available and taken into sympathetic consideration, granted liberty to the petitioner herein to submit her representation and it was also submitted and came to be rejected by the Secretary to Government, Tamil Nadu Housing and Urban Development Department, Secretariat, Chennai - 600 009 vide Letter No.16344/Vee.Va.2(2)/2018-5, dated 26.10.2018, which is taken on file and recorded.

8. This Court on an independent application of mind to the entire materials is of the considered view that there is no error apparent on the face of the record or infirmity in the reason assigned by the learned Judge and finds no merits in this writ appeal.

9. In the result, the Writ Appeal stands dismissed, confirming the order dated 03.08.2018 made in W.P.No.18320/2018. No costs. Consequently connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Fort St.George, Chennai - 600 009.
- 2.The Chairman and Managing Director,
Tamil Nadu Housing Board,
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- 5.The Inspector of Police,
Law and Order,T.P.Chatiram Police Station,
Chennai - 600 010.

+1 CC to M/s. C.S. Associates sr 82490.
+1 CC to Mr.V.Anandamurthy, Advocate sr 82185.
+1 CC to Spl.Govt. Pleader sr 82409.

WA.No.2627 of 2018

SVN(CO)
SP(23/01/2019)