

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.11.2018

CORAM

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

WA.No.2583/2018 & CMP.Nos.21025 & 21026/2018

P.Ravisankar

Appellant / Writ Petitioner

Versus

- 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 / Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 03.08.2018 made in WP.No.18321/2018. Writ Petitions filed under Article 226 of the Constitution of India, Praying to issue a Writ of Mandamus, forbearing the

respondents 1 - 4 from evicting the petitioner from Flat No.Q-3 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 and pass such further or other orders.

For Appellant : Mr.P.Ganesan
For RR 1 to 4 : Mr.S.R.Rajagopal, AAG assisted by
Mr.V.Anandamurthy, AGP
For R5 : Mr.E.Manoharan, AGP

JUDGMENT

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

By consent, the writ appeal is taken up for final disposal and is disposed of by this judgment. Mr.S.R.Rajagopal, learned Additional Advocate General assisted by Mr.V.Anandamoorthy, learned counsel accepts notice on behalf of the respondents 1 to 4 and Mr.E.Manoharan, learned Additional Government Pleader accepts notice on behalf of the 5th respondent.

2 The petitioner in WP.No.18321/2018 is the appellant herein.

3 The appellant/writ petitioner filed the said writ petition praying for issuance of a writ of mandamus forbearing the respondents 1 to 4 therein from evicting the appellant/writ petitioner from Flat Q-3, 96, Tamil Nadu Government Rental Housing Scheme, Kilpauk Garden Colony, Chennai-10, with a consequential direction, directing the said respondents to said respondents to provide an alternate accommodation to him based on his representation dated 28.06.2018.

4 The said writ petition, after contest, came to be dismissed vide impugned common order dated 03.08.2018 made in WP.Nos.18320 to 18324/2018, filed by Tmt.Ramalakshmi Nagarajan, Thiru. P.Ravishankar [appellant herein], Thiru.S.Viswanathan, Thiru K.Mahialagan and Tmt.Kaladevi respectively and challenging the dismissal of the said writ petition in WP.No.18321/2018, the present writ appeal is filed.

5 The appellant/writ petitioner, in the affidavit filed in support of the writ petition, would aver among other things that he is a social worker and a tenant of the said premises admeasuring to an extent of 624 sq.ft., and it was allotted to him by way of Public Quota by the 1st respondent in terms of G.O.[2D] No.577 dated 11.06.2008. The appellant/writ petitioner would further aver that from the year 2008 onwards, he along

with his family members are residing there peacefully without any hindrance and is also paying all necessary charges to the concerned authorities from the date of their occupation. The appellant/writ petitioner would further state that to his shock and surprise, the 4th respondent has sent a communication dated 29.08.2017 demanding a very huge sum by way of monthly rent from him and since the said hike was not at all justifiable, he filed WP.No.5292/2018, making a challenge to the said order and it was entertained and a conditional interim order was granted and accordingly, the appellant/writ petitioner is paying 50% of the demanded rent to the 4th respondent and the said writ petition is still in force.

6 The 4th respondent appears to have been infuriated by the act of the appellant/writ petitioner in filing WP.No.5292/2018 and hence, issued a notice dated 13.04.2018, wherein a demand has been made to vacate the premises under his occupation within 30 days and immediately, the appellant/writ petitioner met the 4th respondent and pleaded him to withdraw the said notice or in the alternate, provide another accommodation to him in lieu of the said allotment and in this regard, a representation dated 28.06.2018 was also submitted by the appellant/writ petitioner and it failed to invoke any kind of response and apprehending dispossession in terms of the said notice, the appellant/writ petitioner filed the present writ petition in WP.No.18321/2018 challenging the said notice and the said writ petition along with four other writ petitions filed by Tmt.Ramalakshmi Nagarajan, Thiru.S.Viswanathan, Thiru K.Mahialagan and Tmt.Kaladevi respectively, were entertained.

7 Mr.S.R.Rajagopal, learned Additional Advocate General assisted by Mr.V.Ananthamurthy, learned Standing Counsel appearing for the respondents, during the course of arguments in the writ petitions,, made a submission that Public Quota no longer remains and the Government took a policy decision to totally scrap the same and as such, the appellant/writ petitioner, as a matter of right, cannot demand an alternate accommodation. The learned Single Judge has taken note of the said submission on instructions and directed the respondents 1 to 4 to consider the representation submitted by the appellant/writ petitioner and pass orders within a week's time and also taken note of the fact that insofar as the petitioner in WP.No.18324/2018 was closed as she has been issued with an alternate accommodation at Padikuppam and the appellant/writ petitioner in WP.No.18321/2018 challenging the disposal of the writ petition in the above said manner, came forward to file the present writ appeal.

8 The learned counsel for the appellant/writ petitioner has drawn the attention of this Court to the typed set of

documents and would submit that as per the erstwhile policy decision, the appellant/writ petitioner was allotted the said flat as he is a social worker and he is residing there along with his family for the past ten years and since a huge demand in increase of rent was made, he was constrained to file WP.No.5292/2018 and a conditional interim order was passed and it has also been complied with and in all fairness, the respondents 1 to 4, having stated that the premises requires demolition, ought to have given an alternate accommodation to the appellant/writ petitioner so that he can live peacefully along with his family and in the light of the said unreasonable stand taken by them in the impugned notice, the appellant/writ petitioner was constrained to approach this Court and the learned Single Judge without understanding the hardship and difficulties faced by him, has erroneously closed the writ petition with some observations and prays for interference.

9 Per contra, Mr.S.R.Rajagopal, learned Additional Advocate General assisted by Mr.V.Anandamurthy, learned Additional Government Pleader appearing for the respondents 1 to 4 would submit that the Government took a fair decision to scrap the Public Quota altogether and the said policy is no longer in vogue and would further submit that since discretionary quota has been scrapped and that the premises in question also requires immediate demolition, a fair decision has been taken to demolish and put up a new superstructure and the appellant/writ petitioner, as a matter of right, cannot seek an alternate accommodation in the absence of any guidelines or policy. It is the further submission of the learned Additional Advocate General that WP.No.5292/2018 filed by the appellant/writ petitioner along with the connected matters, were also dismissed and in pursuant to the directions only, the impugned notice came to be issued and on instructions, would submit that the representation submitted by the appellant/writ petitioner has been given a disposal in the form of rejection vide communication of the 1st respondent dated 26.10.2018 in Letter No.16344/tP/t.2(2)/2018-6.

10 This Court has carefully considered the rival submissions and also perused the materials placed before it.

11 Admittedly, the appellant/writ petitioner was allotted the said flat by way of discretionary quota which technically amount to out of turn allotment. The respondents having noted that the premises / flat in occupation of the appellant/writ petitioner has become dilapidated, called upon him to vacate and deliver vacant possession of the same and on receipt of the same, he has submitted a representation seeking an alternate accommodation. As rightly pointed out by the learned Additional Advocate General, the appellant/writ petitioner, as a matter of right, cannot seek an alternate accommodation in the absence of

any policy decision/guidelines and it is also to be remembered at this juncture that claiming to be a social worker, the appellant/writ petitioner got allotment under the discretionary quota, which this Court has already pointed out as a out of turn allotment.

12 The representations dated 12.06.2018 and 24.09.2018 respectively submitted by the appellant/writ petitioner also came to be rejected by the 1st respondent vide communication dated 26.10.2018. In the considered opinion of the Court, the appellant/writ petitioner has no vested or legal right to get an alternate accommodation in lieu of the allotment made under discretionary quota and the reasons for eviction disclosed in the impugned notice are also sustainable for the reason that the said flat has also become highly dilapidated and in the event of falling down, there may be loss of lives and property. In the considered opinion of the Court, the learned Single Judge has taken into consideration all the material aspects and rightly reached the conclusion and in the absence of any error apparent on the face of the record or infirmity, this Court cannot interfere with the said order. This Court, having found no merits in the writ appeal is inclined to dismiss the same.

13 In the result, the writ appeal is dismissed, confirming the order dated 03.08.2018 made in WP.No.18321/2018 subject to the above observations. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

AP

To

- 1 Secretary to Government
State of Tamil Nadu
Housing and Urban Development
Department, Secretariat,
Fort St George, Chennai 600 009.
- 2 Chairman and Managing Director
Tamil Nadu Housing Board
No.331, Anna Salai, Nandanam
Chennai 600 035.
- 3 The Authorised Officer/Chief Revenue
Officer, Tamil Nadu Housing Board,

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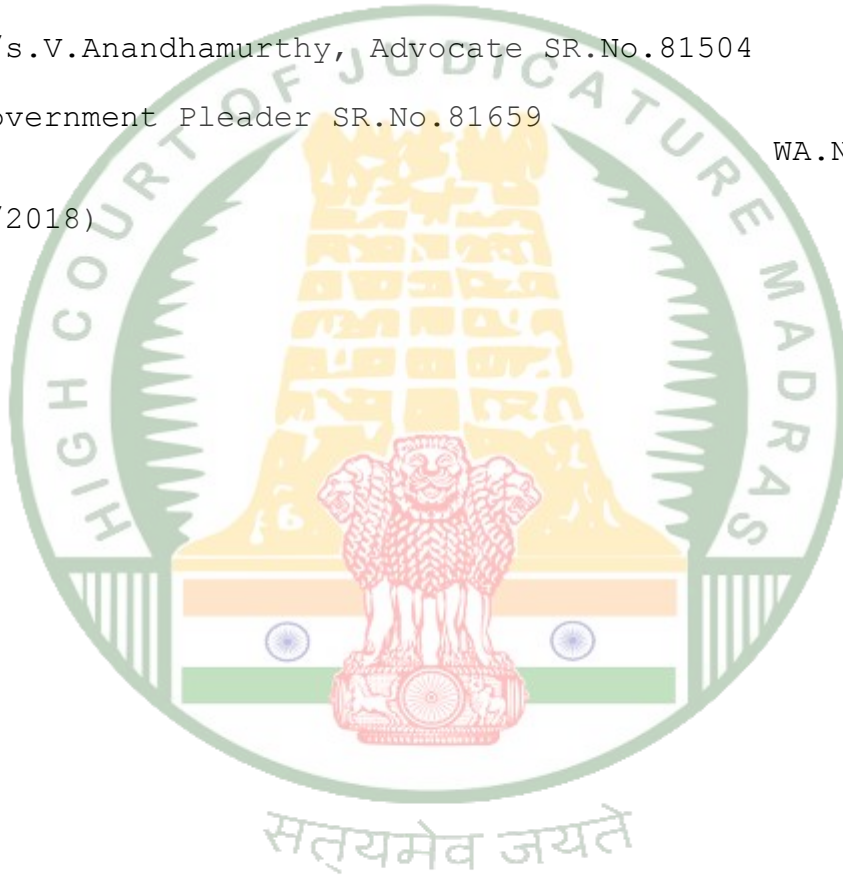
+1cc to M/s.C.S.Associates, Advocate SR.No.81811

+1cc to M/s.V.Anandhamurthy, Advocate SR.No.81504

+1cc to Government Pleader SR.No.81659

WA.No.2583/2018

AD(CO)
GMY(19/12/2018)



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