



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated :04.09.2018

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A.(MD)No.566 of 2018

and

C.M.P(MD)No.3169 of 2018

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1.The Managing Director,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 600 034.

2.The Executive Engineer and
Administrative Officer,
Madurai Housing Unit,
Tamil Nadu Housing Board,
Ellis Nagar,
Madurai - 625 016.

.. Appellants / Respondents 2 & 3

v.

1.C.Balusamy,
Office Assistant (Retd.),
Main Road, K. Pudur,
Madurai District.

.. 1st Respondent / Petitioner

2.The Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai - 600 009.

3.The Deputy Director,
Social Welfare Department,
Regional Office,
Madurai - 2.

..Respondents 2 & 3 / Respondents 1 & 4

Prayer : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 08.11.2012 passed in W.P(MD)No.10301 of 2007 on the file of this Court thereby allowing this appeal.

Prayer in WP(MD). 10301/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus, to call for the records on the file of the 1 st respondent in pursuant to the impugned order passed by him vide letter No.35456/Vee.Va3(2)/06/2 dated 4.10.2007 and communication order passed by the 3rd respondent vide letter No.P2/E4/8/98 dated 15.10.2007 and quash the same and consequently direct the 1st respondent to refund the amount of Rs.15,827/- with interest to the petitioner within the time.



For Appellants
For R-2 & R-3

: Mr.R.Janarthanan
: Mrs.J.Padmavathi Devi,
Special Government Pleader

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JUDGMENT

[Judgment of the Court was delivered by PUSHPA SATHYANARAYANA, J.]

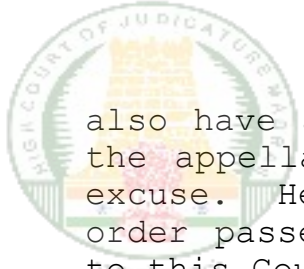
This writ appeal is filed by the Tamil Nadu Housing Board, Chennai, challenging the order passed by the learned single Judge, directing them to refund the excess amount paid by the writ petitioner with interest at 24% per annum.

2. We have heard the learned counsel appearing for the appellants and the learned Special Government Pleader appearing for the respondents 2 and 3 and perused the materials placed before us.

3. It is seen that the writ petitioner / first respondent, who was working as an Office Assistant in the Social Welfare Department had retired from service on 31.03.2005. While he was in service, he was permitted to occupy the quarters belongs to the Tamil Nadu Housing Board at D.R.O Colony, Madurai in the year 1998. In the meantime, the first respondent / writ petitioner was transferred from Madurai to Chennai. Thereafter, vide proceedings of the Director of Social Welfare Department, dated 28.04.2005, he was permitted to occupy the same quarters from 11.12.2002 to 31.05.2005 at concessional rent. While this was so, the second appellant directed the first respondent / writ petitioner to pay penal interest of Rs.23,576/-. The first respondent also remitted the said amount, which is an excess of concessional rent payable by the first respondent / writ petitioner. There was also an instruction to the Assistant Treasury Officer, Madurai, to refund the excess amount paid by the first respondent / writ petitioner. But, the Assistant Treasury Officer had refused to refund the said amount stating that the said amount was credited to the Housing Board Account. Therefore, the excess amount paid by the first respondent can be refunded only by the refunding authority. Therefore, the Writ Petition was filed.

4. The said writ petition filed by the first respondent / writ petitioner was allowed by the learned single Judge, observing that the appellants / respondents had to refund the excess amount collected from the first respondent / writ petitioner, to the tune of Rs.15,827/- with interest at 24% per annum from the date when it had fallen due till the date it was paid. Six weeks time was granted to refund the said amount.

5. It is not in dispute that the first respondent / writ petitioner had paid excess amount of Rs.15,827/- and the appellants



also have admitted the receipt of the excess amount. In that case, the appellants are duty bound to refund the same even without any excuse. Here, despite the order of this Court, without obeying the order passed by the learned single Judge, the appellants have come to this Court by way of an appeal, which shows their attitude.

6. Further, it is understandable if the amount is high, it will be difficult for the Housing Board, to refund the same immediately. But, the amount refundable is only a sum of Rs.15,827/-. In spite of the same, by filing the writ appeal, the appellants are trying to defeat the orders passed by the learned single Judge. The writ petitioner, who was only an Office Assistant was forced to pay the excess amount and the refund is now being delayed making him to run from pillar to post.

7. In such circumstances, we do not find any infirmity in the order passed by the learned single Judge.

8. In the result, this writ appeal is dismissed and the order passed by the learned single Judge, dated 08.11.2012 in W.P(MD) No.10301 of 2007, hereby is confirmed. The appellants are directed to comply with the order passed by the learned single Judge, within a period of two weeks from today and report to this Court and the appellants may recover the said amount, from appropriate authority. No Costs. Consequently, connected miscellaneous petition is closed.

9. Post the matter 'for reporting compliance' on 18.09.2018.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-II)

To:

1.The Secretary to Government,
Housing and Urban Development Department,
Secretariat,
Chennai - 600 009.

2.The Deputy Director,
Social Welfare Department,
Regional Office,
Madurai - 2.

+1CC TO MR.R.JANARTHANAN, ADVOCATE IN SR.No.82134.

PM

DS RP SAR-2;07.09.2018; 3P/4C