

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.18015 of 2007

Aparna

..Petitioner

Vs

The Tamil Nadu Housing Board,
Rep.by its Managing Director,
Nandanam, Chennai.

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of certiorarified mandamus to call for the records of the respondent made in Va.Va.1/64058/07, dated 17.04.2007 and quash the same and forbearing the respondent from taking any eviction proceedings pursuant to the impugned order dated 17.04.2007 with regard to our rented tenement No.68 A, Nandanam Colony 3rd Street, Nandanam, Chennai - 35.

For Petitioner : Mr.P.Gunaraj

For Respondent : Mr.R.Bharath Kumar
Standing Counsel

O R D E R

This writ petition has been filed for issuance of writ of certiorarified mandamus, to quash the order of the respondent dated 17.04.2007 in Va.Va.1/64058/07, in and by which, the petitioner was directed to vacate the house bearing No.68 A, Nandanam Colony 3rd Street, Nandanam, Chennai - 35.

2. According to the petitioner, a house bearing door No.68 A, Nandanam Colony 3rd Street, Nandanam, Chennai - 35 was originally allotted to her father S.Shyam Sundar on rental basis. After the death of the petitioner's father, her mother Kamala became the statutory tenant and they are living in the aforesaid premises. It is further stated that the respondent erroneously come to the conclusion that her father subletted the tenement to one Padma. While so, the impugned order has been issued by the respondent, directing the petitioner to vacate the aforesaid premises.

3. Heard Mr.P.Gunaraj, learned counsel for the petitioner and Mr.R.Bharath Kumar, learned Standing Counsel for the respondent.

4. The learned counsel for the respondent would submit that the issue involved in this writ petition is no longer res integra, since the Division Bench of this Court by a judgment dated 16.6.2010 in W.A.No.1443 of 2008 in the case of K.Saraswathi Vs. State of Tamilnadu, has held that the legal heirs are not entitled for transfer of leasehold rights. The relevant paragraph would run thus :-

"The decision taken by the Housing Board not to transfer the allotment under the public rental category was with a specific purpose. It was a decision taken in larger public interest. There are many people in the queue, claiming such allotment. It is only when the houses are vacated, the Housing Board would be in a position to consider their request for allotment. In case existing allotments are transferred from the name of original allottee to the legal heirs and thereafter, to the next generation, the property would continue to be in the hands of chosen few and others would be denied of such accommodation. Therefore, an element of social objective was behind the decision taken by the Board not to permit transfers to the legal heirs. We do not find any illegality in the said policy decision warranting our interference. The application submitted by the appellant was rejected on valid reasons, in the light of the prevailing policy of the Board. The matter was considered once again by the Government and the plea was again rejected. The issue was re-examined by the learned Single Judge and arrived at a correct conclusion that the order does not warrant interference. We do not find any justifiable reason to take a different view in the matter."

5. The decision of the Division Bench has been followed by another Division Bench in W.A.No.1722 of 2012 in the case of Ambrish Ashok Pathak Vs. The Tamilnadu Housing Board. It is also submitted that the decision of the Division Bench has been confirmed by the Hon'ble Supreme Court in S.L.P.No.7732 of 2015.

6. In the light of the decision of the Division Bench referred supra, this Court is of the considered opinion that the petitioner is not entitled for the prayer sought for in the Writ Petition. In that view, the Writ Petition fails and the same is dismissed. There is no order as to costs.

ms

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

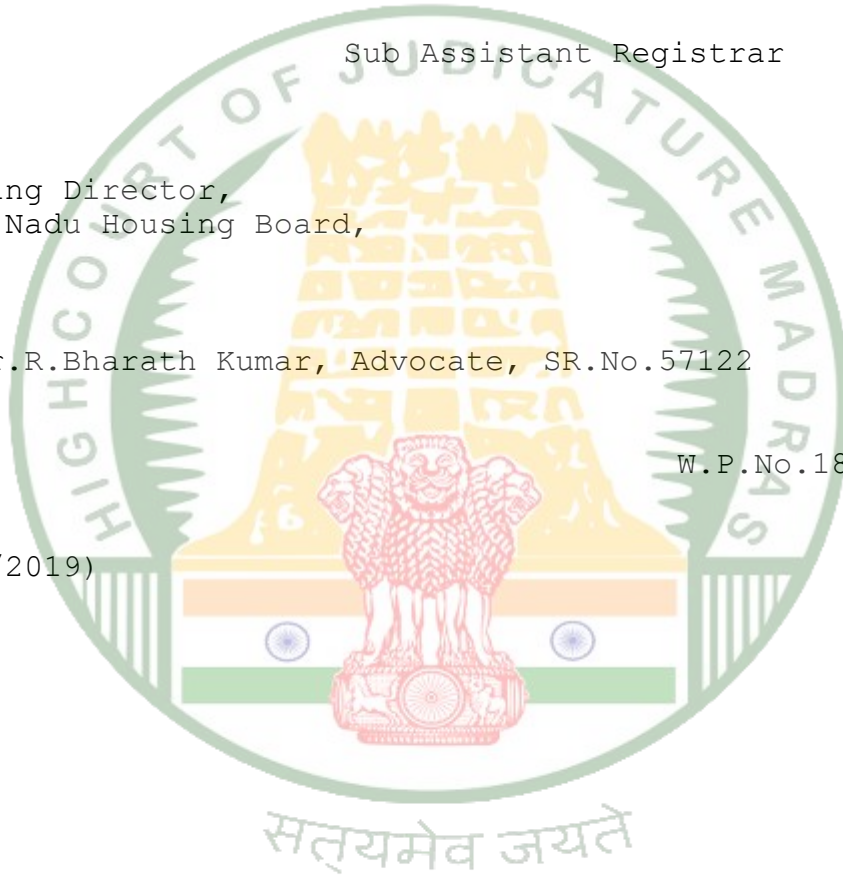
To

The Managing Director,
The Tamil Nadu Housing Board,
Nandanam,
Chennai.

+1cc to Mr.R.Bharath Kumar, Advocate, SR.No.57122

W.P.No.18015 of 2007

Kak(18/09/2019)



WEB COPY