

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.18764 of 2007

and

M.P.No.2 of 2007

G.Ravikumar

..Petitioner

Vs

Tamil Nadu Housing Board,
Rep.by its Secretary and Administrative Officer,
Nandanam, Chennai - 600 035.

.. 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, relating to the order of the respondent in Rc.No.Va.Va.1/64058/07, dated 04.05.2007 and quash the same and direct the respondent herein to forthwith transfer the leasehold rights in respect of Old No.60, New No.4 of Nandanam Colony, Chennai 600 035 in the name of the petitioner.

For Petitioner : Mr.Kandavadivel Doraisami

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 04.05.2007 in Rc.No.Va.Va.1/64058/07, in and by which, the petitioner was directed to vacate the house bearing Old No.60, New No.4 of Nandanam Colony, Chennai 600 035.

2. According to the petitioner, a house bearing Old No.60, New No.4 of Nandanam Colony, Chennai 600 035 was originally allotted to one G.Sarojini Devi on rental basis. After her death, the tenancy was transferred in the name of her mother M.Rukmani. The petitioner would claim that his mother M.Rukmani, died in the year 1997 and at that time he was living along with his mother and hence, he is entitled for transfer of tenancy in his name.

3. Heard Mr.Kandavadivel Doraisami, 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. Consequently, connected miscellaneous petition is closed.

ms

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Secretary and Administrative Officer,
Tamil Nadu Housing Board,
Nandanam,
Chennai - 600 035.

+1cc to Mr.R.Bharath Kumar, Advocate, SR.No.57123

+1cc to M/s.Muthumani Doraisami, Advocate, SR.No.56830

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Kak(18/09/2019)

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