

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2019

CORAM
THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.3 of 2009
and
M.P.No.2 of 2009

P.Padmavathy

...Petitioner

Vs

- 1.Tamil Nadu State Housing Board
rep.by its Chairman,
No.493, Anna Salai,
Nandanam, Chennai-35.
- 2.Tamil Nadu State Housing Board
rep.by its Revenue Officer - Authorised Officer,
No.493, Anna Salai,
Nandanam, Chennai-35.
- 3.The Government of Tamil Nadu
rep.by its Secretary to Government,
Housing and Rural Development Department,
Chennai-600 009.

(R3 impleaded as per order dated 21.06.2010
in M.P.No.1 of 2010 in W.P.No.3 of 2009).

...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondents dated 01.12.2008 in Proceedings No.B2/29256/08 with regard to the cancellation of allotment and eviction from the premises MIG-D1, Foreshore Estate, Chennai-28, by quashing the same and consequently directing the respondents to transfer the allotment (tenancy) in the name of the petitioner and other legal heirs with regard to the aforesaid premises.

For Petitioner : M/s.Thamizharasi

For Respondents : Mr.V.Anandhamurthy for R1 and R2
Mr.J.Ramesh, AGP for R3

O R D E R

The case of the petitioner is that her husband late P.Chandran was allotted an MIG Flat under General Rental Schemes at Foreshore Estate bearing No.MIG-D1, Foreshore Estate, Chennai-28 by the first respondent in the year 1961, and since then they have been residing in the said flat and paying rent to the Tamil Nadu Housing Board. Even after her husband's death, she was residing there paying the monthly rent to the Board. When she intimated the death of her husband by letter dated 30.07.2006 to the first respondent and requested for transfer of allotment in her name, a show cause notice was issued to her on 21.07.2008 by the second respondent calling upon her to offer explanation for continuing to reside in the said flat without the permission of the Board. She also offered her explanation. But without conducting any enquiry, the second respondent has passed the order of eviction by letter dated 01.12.2008, stating that the allotment of flat under her occupation has been cancelled under Section 84(1) of the Tamil Nadu Housing Board Act.

2.With the above background, this writ petition has been filed by the petitioner to quash the impugned order and for a direction to transfer the allotment in her name.

3.Today, when this writ petition was taken up, the learned counsel for the respondent Board has produced a copy of the order passed by this Court in W.P.No.13934 of 2012 dated 16.11.2018, under similar circumstances, and submitted that the claim of the petitioner herein is not sustainable and hence the writ petition has to be dismissed.

4.In the case in W.P.No.13934 of 2012, the father of the petitioner therein was the original allottee. After his death, the petitioner therein and his brother were continuing to occupy the premises. Stating that they are entitled to occupy the premises, even after the death of the original allottee, the said writ petition was filed. But the same was dismissed on the ground that occupying the premises by the legal heirs of the allottee would amount to 'unauthorised occupation'. Various judgments have been relied upon in that order and one such judgment is in the case of Ambrish Ashok Pathak v. The Tamil Nadu Housing Board, rep.by its Chairman, Anna Salai, Chennai-2 and two others, passed by a Division Bench of this Court in W.A.No.1722 of 2012 dated 04.02.2015, in which it has been held that the decision of the Housing Board not to transfer the allotments under the Public Rental Category was with a specific purpose and it was a decision taken in larger public interest and hence there is no illegality in the said policy decision warranting interference.

5.The above said judgment is squarely applicable to the facts of the present case and hence the claim of the petitioner herein does not deserve any consideration. Accordingly the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chairman,
Tamil Nadu State Housing Board
No.493, Anna Salai,
Nandanam, Chennai-35.
- 2.The Revenue Officer - Authorised Officer,
Tamil Nadu State Housing Board,
No.493, Anna Salai,
Nandanam, Chennai-35.
- 3.The Secretary to Government,
Government of Tamil Nadu
Housing and Rural Development Department,
Chennai-600 009.

+1cc to Mr.R.Mogan, Advocate, S.R.No.3083
+1cc to Mr.V.Anandhamurthy, Advocate, S.R.No.3346
+1cc to the Government Pleader, S.R.No.3972

W.P.No.3 of 2009
and
M.P.No.2 of 2009

SSI (CO)

rrs 11/02/2019

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