

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17259 of 2005

and

W.P.M.P.No.18735 of 2005

R.Mani

..Petitioner

Vs.

1.State of Tamil Nadu,
Rep.by its Secretary to Government
Housing & Urban Development
Department,
Fort St.George, Chennai - 9

2.Estate Manager cum Branch Manager,
Ambattur SIDCO, Industrial Estate,
Ambattur, Chennai - 58.

3.The Superintendent of Police,
Chengai-East, St.Thomas Mount
Chennai - 600 116

4.The Chairman & Managing Director,
SIDCO, Corporation office,
Thiruvicca Industrial Estate,
Guindy, Chennai - 32.

(R4 - Suo-Motu impleaded as per
order dated 16.09.2019 in
W.P.No.17259/2005)

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in connection with the impugned order in Rc.No.289/A10/04 dated 9.5.2005 and quash the same and consequently direct the 2nd respondent to sell the tenement at No.A2, Ambattur Industrial Estate Police Quarters, Ambattur Industrial Estate, Chennai 600 058 to the petitioner in accordance with G.O.Ms.No.128 Housing and Urban Development Department dated 24.3.1997.

For Petitioner : Mr.M.Ramamoorthi

For Respondent : Mr.J.Ramesh

Additional Government Pleader

[For R1]

Mr.V.Jayaprakash Narayanan
Assisted by
Mr.S.Yashwanth
[For R2 to R4]

O R D E R

The order dated 09.05.2005, which is a notice issued by the Estate Manager cum Branch Manager / 2nd respondent, is under challenge in the present writ petition.

2. The writ petitioner states that he was allotted a house by the Managing Committee of Industrial Housing Departments of Industries and Commerce and later on, the administration and the maintenance of the tenements was transferred to the Tamil Nadu Small Industries Corporation Limited. The petitioner is a retired Sub Inspector of Police, retired from the Police Department of the Government of Tamil Nadu. He was paying the rent for his occupation and as was allotted with the tenements at No.A2, Ambattur Industrial Estate, Police quarters, Chennai - 58 during the year 1979. During the relevant point of time, the salary of the writ petitioner was below Rs.350/- per month and therefore, he was eligible for such allotment. Under the tripartite agreement, the employer has agreed to deduct the rent and other maintenance and water charges from the salary of the allottee and paid on his account. Under the said scheme, near about 4117 tenements were built throughout the State.

3. The contention of the writ petitioner is that the Government issued an order in G.O.Ms.No.128, Housing and Urban Development Department dated 24.3.1997 to allot the same on permanent basis on certain terms and conditions. Relying on the said Government order, the petitioner claims that he is entitled for transfer of title on compliance of certain terms and conditions as per the Government order. However, no such promise or order was passed by the respondent. The writ petitioner continued in the said quarters without any authority and failed to pay the monthly rent for several years. Pursuant to the Government orders, no agreement was entered into between the petitioner and the respondents and the writ petitioner continued in the Government quarters illegally and without any authority.

4. It is pertinent to note that the petitioner had not paid the rent and further, the respondents also have not initiated any steps to recover the rent. Contrarily, they were going on sending the same notice periodically without any further action. The Notice dated 09.05.2005 is challenged in the present writ petition. The notice impugned states that the petitioner was

allotted the tenements in Ambattur Estate and the writ petitioner should surrender the Police quarters belonging to the SIDCO within 30 days from the date of retirement from police service. Even after several months from the date of retirement, the petitioner had not surrendered the above quarters and therefore, the impugned notice was issued. However, no further actions were initiated by the authorities concerned either to evict the writ petitioner or to recover the rent and arrears of rent. There is no interim order passed in this writ petition. The writ petition was admitted and kept pending. Thus, there is no bar for the respondents to collect the arrears of rent and to evict the writ petitioner. In view of the fact that the authorities also committed lapses, negligence and dereliction of duty in collecting the rent as well as arrears of rent and initiate all further proceedings to evict the illegal occupants, this Court directed the respondents to initiate action in this regard even against the officials, who have committed such illegalities and dereliction of duty and negligence, causing financial loss to the respondents SIDCO. Pursuant to the directions issued by this Court on 23.09.2019, the respondents have initiated action by issuing Show Cause Notice to the officials and further, the writ petitioner also vacated the premises and handed over the possession to the respondent authorities.

5. The learned counsel appearing on behalf of the respondents now state that the disciplinary proceedings are initiated against the officials for their lapses, negligence and dereliction of duty and the disciplinary proceedings initiated, would be continued and all further actions will be taken in this regard by the competent authorities.

6. It is further brought to the notice of this Court that in respect of all other similar tenements, where the allottees have not vacated the quarters and not paid the rent, actions were taken across the State and accordingly, all such illegal occupants will be evicted by following the procedures and the arrears of rent due to the respondents would be recovered by following the procedures and in accordance with law. It is needless to state that it is the duty of the officials concerned to enforce law in respect of such illegal occupants.

7. This Court is of the considered opinion that there was a consistent failure on the part of the officials in collection of the monthly rent properly and promptly. This apart, the illegal occupants were allowed to continue for number of years without any authority and this Court is of the considered opinion that this illegal occupation may not be possible without the support

or collusion of the authorities competent, who all are in charge or administering the quarters. These officials, who all are in charge, are very much aware of such illegal occupants and non-payment of monthly rent. Thus, their inactions are to be viewed seriously and they must be held responsible and liable for all such financial loss to the institution. There cannot be any lenient view in respect of such serious lapses on the part of the public authorities. The public authorities are bound to act vigilantly and prudently. The Revenue of the respondent organizations are to be protected and in the event of any such lapses, the authorities competent are bound to initiate all actions against the officials also.

8. Take a case, where a person is in illegal occupation of a Government quarters and the officials concerned have not taken any action nor initiated steps to recover the monthly rent, then it is to be construed that they have connived with such illegal occupants or failed to initiate action as per law and, in either course, they are liable and accountable. However, these facts are to be culled out by conducting an enquiry.

9. This being the facts and circumstances, the learned counsel for the respondents now brought to the notice of this Court that the arrears of rent to be paid by the writ petitioner is also calculated and the petitioner is bound to pay.

10. The learned counsel for the writ petitioner, who is fair enough to made a submission that the petitioner would pay the arrears of rent in equal installments in view of the fact that now he is a pensioner and he is leading his livelihood with the small amount of pension. However, the petitioner has agreed to pay the arrears of rent in 18 equal installments and to that effect, he has filed an affidavit, which states as follows:

"I submit that the interest part of the payments on the rent may kindly be withdrawn and I may be given 18 months time for payment of the rental arrears and I undertake to pay the entire rental arrears within a period of 18 months. I submit that I am a pensioner drawing a pension of Rs.20,000/- P.M. The same may be considered in granting me time for payment of arrears of the rent."

11. The learned counsel for the writ petitioner made a submission that since the petitioner is a pensioner, imposing interest, would affect his livelihood.

12. This Court has to consider this aspect in view of the fact that it is not only the default on the part of the

petitioner, equally, the officials are also responsible for their inactions, omissions or commissions. If the monthly rents are recovered properly or if vigilant actions are taken in this regard, then the interest would not have been accumulated to this extent and now, it would be very difficult for the pensioner to pay the interest for such a long period. This being the factum, the petitioner, as per his own undertaking by way of an affidavit dated 4th November 2019, is directed to pay the entire arrears of rent till the date of handing over of possession to the respondents in 18 Equal installments and the respondents are bound to send the copy of the calculation sheet to the writ petitioner, enabling the writ petitioner to pay the entire arrears of rent in 18 equal installments, commencing from 1st December 2019.

13. As far as the interest portion is concerned, this Court is of an opinion that SIDCO is the Government of Tamil Nadu undertaking. Therefore, the arrears of rent, interest are to be construed as tax payers' money. When the taxpayers' money is not collected promptly by the officials concerned and they should also be held responsible and liable. The inaction, lapses, negligence and dereliction of duty in collection of rent and eviction of illegal occupants, resulted in financial loss to the respondents SIDCO. When the public money has not been properly protected by these officials, they must also be held responsible in their personal capacity. Otherwise there is no possibility of improving the system and implementation of law in this regard. These officials are paid decent salary, and in spite of that they have not shown any devotion to public duty.

14. This being the view of this Court, as far as the interest portion is concerned, the respondents are directed to complete the disciplinary proceedings initiated against all those officials, who all are responsible and liable for such lapses, negligence and dereliction of duty as expeditiously as possible. Such an order shall be passed after completion of the disciplinary proceedings initiated against all the authorities concerned. As far as the interest amount is concerned, the same is directed to be recovered proportionately from the officials, who all are responsible for their lapses and negligence.

15. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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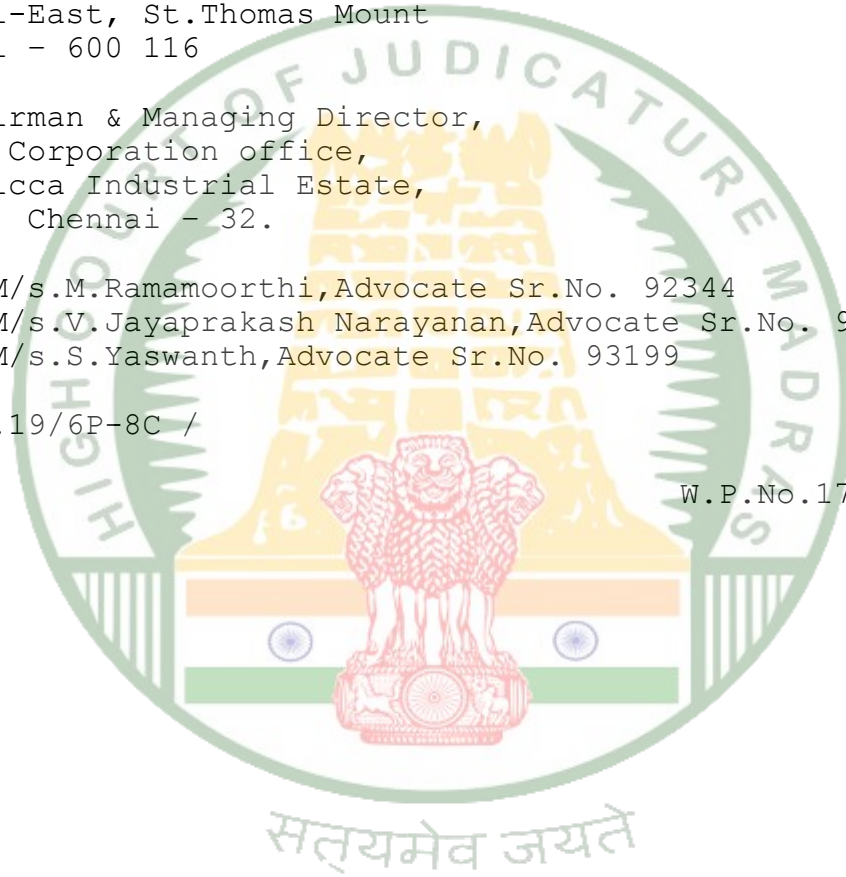
Sub Assistant Registrar

To

- 1.The Secretary to Government
Housing & Urban Development
Department,
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 2. The Estate Manager cum Branch Manager,
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Guindy, Chennai - 32.
- +1 cc to M/s.M.Ramamoorthi,Advocate Sr.No. 92344
+1 cc to M/s.V.Jayaprakash Narayanan,Advocate Sr.No. 92575
+1 cc to M/s.S.Yaswanth,Advocate Sr.No. 93199

AKM/11.12.19/6P-8C /

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