

In the High Court of Judicature at Madras

Dated : 04.3.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Writ Appeal No.711 of 2019 & CMP.No.5802 of 2019

S.Ramanathan

...Appellant

Vs

1.The Tamil Nadu Housing Board,
rep.by its Secretary,
Nandanam,
Chennai-35.

2.The Executive Engineer and
Administrative Officer, Tamil Nadu
Housing Board, Nandanam
Division,
Chennai-35.

3.The Revenue Officer/Authorized
Officer, Tamil Nadu Housing Board,
Nandanam Division, Chennai-35.

...Respondents

APPEAL under Clause 15 of the Letters Patent against the
order dated 16.11.2018 passed in W.P.No.13934 of 2012.

Prayer in WP.No.13934 of 2012:

This Writ Petition filed under Article 226 of the
constitution of India, praying for the issue of a Writ of
Mandamus, direction in the nature of a Writ, forbearing the
respondents, their men, agents and subordinates from treating
the petitioner herein as subtenant as encroacher under his
father Mr.S.Sethuraman and consequently evicting him from his
possession and occupation of Door No. 73, 3rd Street, Nandanam
Colony, Chennai-35.

For Appellant : Mr.M.Bharath

For Respondents : Mr.V.Anandhamurthi

Judgment was delivered by T.S.SIVAGNANAM, J

We have heard Mr.M.Bharath, learned counsel for the appellant and Mr.V.Anandhamurthi, learned Standing Counsel accepting notice for the respondents.

2. This writ appeal is filed challenging the order passed in WP.No. 13934 of 2012 dated 16.11.2018.

3. The appellant filed the said writ petition seeking to forbear the respondents from treating him as a sub-tenant or encroacher under his father late Mr.S.Sethuraman and consequently not to evict him from possession and occupation of the house bearing door No.73, III Street, Nandanam Colony, Chennai-35.

4. The learned Single Judge, by the impugned order, dismissed the said writ petition and in doing so, relied upon various decisions of the Hon'ble Division Benches and held that in the light of the binding precedents, the writ petition stood dismissed.

5. The policy decision taken by the respondent Board not to transfer the allotment upon demise of the allottee has been upheld by the Hon'ble Supreme Court.

6. Mr.V.Anandhamurthi, learned Standing Counsel appearing for the respondent Board submits that similarly placed persons vacated the premises and handed over vacant possession to the respondent Board.

7. The learned counsel for the appellant would submit that the appellant is residing in the premises and that some time may be granted to him to vacate the premises and hand over possession.

8. Since no such liberty was given by the earlier Division Benches, we cannot issue a positive direction or observations in this regard. However, it is open to the respondents to take a decision in the matter.

9. Accordingly, the above writ appeal is dismissed. No costs. Consequently, the connected CMP is also dismissed.

10. However, the appellant is granted liberty to make a representation to the respondent Board by filing an affidavit stating that he will vacate the premises and hand over vacant possession within a time frame. If the respondent - Board is convinced and in case they have taken a decision to grant some reasonable time to the allottees/legal heirs of the allottees to vacate the premises and hand over possession, the same treatment

may be extended to the appellant herein. However, we make it clear that we are not issuing any positive direction in the matter and it is for the respondent Board to take a decision on the representation. The representation shall be given by the appellant within a period of three days from the date of receipt of a copy of this judgment.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

RS

To

- 1.The Secretary,
Tamil Nadu Housing Board,
Nandanam, Chennai-35.
- 2.The Executive Engineer &
Administrative Officer,
TNHB, Nandanam Division,
Chennai-35.
- 3.The Revenue Officer/Authorized Officer,
Tamil Nadu Housing Board,
Nandanam Division, Chennai-35.

+1cc to Mr.M.Bharath, Advocate, S.R.No.20736 (06/03/2019)

WA.No.711 of 2019 &
CMP.No.5802 of 2019

rrs 05/03/2019

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