

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.1073 of 2019

&

C.M.P.No.7879 of 2019

1. R.Susila
2. M.Lakshmi
3. N.Purusothaman
4. C.Arumugam
5. V.Nandhini
6. V.Vadivel
7. E.Varadhan
8. K.Magesh
9. A.Powline
- 10.S.Sumathi
- 11.K.A.Paul
- 12.S.Kannan
- 13.A.Karthikeyan
- 14.J.Jayaganesh
- 15.S.Ramakrishnan
- 16.M.Gopi
- 17.R.Aravindan

...Appellants

-vs-

1. The State of Tamil Nadu,
Rep by the Secretary to
Housing Board and Urban Development,
(HB5-2) Department, Secretariat,
Fort St.George, Chennai - 09.
2. The Tamil Nadu Housing Board,
Rep by its Managing Director,
493, Anna salai, Nandanam, Chennai - 35.
3. R.Vanitha
4. G.Pushparani
5. A.Ravi
6. D.Devi
7. G.Elango
8. V.Geetha Krishnan
9. P.Sujatha
- 10.S.Indira Devi
- 11.S.Viswanthan

12.M.Kamalakannan
13.G.Manoharan
14.M.Selvakumar
15.G.Sargunan
16.S.Pugazhendhi
17.S.Indira
18.R.Rajendiran
19.D.Mohan
20.J.P.Senthilkumar
21.K.Sabeena
22.A.Natarajan
23.E.Prathiba
24.V.Kumar
25.V.Dinasekaran
26.M.Babu Rao
27.Mukavai Metha
28.C.Sivanandam
29.Kausalya

...Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the common order of this Court in batch of cases including W.P.No.28076 of 2017 dated 12.10.2018.

Prayer in WP.No. 28076 of 2017 : Writ Petition filed Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st Respondent in G.O.Ms. No.118 Housing and Urban Development (HB5-2) Department dated 04.07.2017 and quash the same and consequently forbear the 2nd Respondent from demanding enhanced rent on the basis of G.O.Ms. No.118 Housing and Urban Development (HB5-2) Department dated 04.07.2017.

For appellants : Mr.P.Wilson, Senior Counsel
for M/s.P.Wilson Associates

For respondents : Mr.R.P.Prathap Singh,
Government Advocate
(for R.1)
Dr.R.Gouri
(for R.2)

JUDGMENT

(Judgment of the Court was delivered by T.S.Sivagnanam, J.)

These appeals are filed challenging the common order passed in W.P.Nos.28076 of 2017 etc., batch dated 12.10.2018.

2. We have heard Mr.P.Wilson, learned Senior Counsel for the appellants and Mr.R.P.Prathap Singh, learned Government

Advocate for first respondent and Dr.R.Gouri, learned counsel for the second respondent.

3. The very same impugned order was subject matter of challenge in batch of appeals which was considered by us on 22.04.2019 in W.A.Nos.535, 131, 133, 138, 140 and 141 of 2019 and those appeals were dismissed. The operative portion of the judgment reads as follows:

"7.Assuming the appellants had taken on rent a private accommodation, the Landlord is entitled to revise the monthly rent and is entitled to seek for fair rent. The position becomes no different merely because the State Government or the Tamil Nadu Housing Board is the owner of the property. The appellants have enjoyed Government accommodation all these years and they are bound to pay the rent which has been found to be reasonable by the learned Single Bench which also appeals to us and we find no ground to interfere with the order and direction issued by the learned Single Bench.

8.With regard to the plea of discrimination raised by the appellants, we direct the respondents to uniformly apply the Government Order to all the 'public quota' allottees and there shall be no discrimination in implementing the revised rent. The appellants may be granted reasonable time to settle the arrears subject to the condition that they start paying increased rent prospectively.

9.With the above observations, the writ appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

3. It is the endeavor of the learned senior counsel for the appellant to convince this Court to apply the decision of the Hon'ble Division in the case of Nandanam Colony Kudiyiruppor Nala Sangam Vs. the State of Tamil Nadu [reported in MANU/TN/9001/2006]. Infact the situation which prevailed at that relevant point of time was entirely different.

4. The learned standing counsel for the respondent/Board has produced a chart before this Court to show that all the appellants/writ petitioners are in gross arrears of the monthly rent which are payable. The submission of the learned Senior Counsel for the appellants is that all the appellants have been paying 50% of the enhanced rent. However, the fact remains the period on default is highest of 14 months more particularly in the case of R.Susila, who has been allotted Flat No.AC31.

5. In any event, we have considered as to what was the right of the appellants to remain in possession of the property. In Writ Appeal Nos.453 to 457, 492, 500, 524, 525 and 530 of 2019 dated 01.03.2019 we have stated that a person allotted under the public quota has no vested right to remain in the premises. We have also pointed out the nature of transaction between the appellant and the Housing Board/Government. The decision rendered by us has been upheld by the Hon'ble Supreme Court as Special Leave Petition have been dismissed.

6. In the light of the above, the decision in Nandanam Colony is clearly distinguishable on facts and cannot be applied to the present case on hand.

7. Thus the writ appeal fails and accordingly dismissed. No costs. As observed by us in the earlier judgement dated 22.04.2019, the respondent/Board shall grant reasonable time to the appellants to pay the arrears as per the enhanced demand subject to the condition that the current enhanced rent should be cleared.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

mrn

To

1.The Secretary to Government,
The State of Tamil Nadu,
Housing Board and Urban Development,
(HB5-2) Department, Secretariat,
Fort St.George, Chennai - 09.

2.The Managing Director,
The Tamil Nadu Housing Board,
493, Anna salai, Nandanam,
Chennai - 35.

+1cc to Mr.P.Wilson Associates, Advocate, S.R.No. 38937
+1cc to Dr.R.Gowri, Advocate, S.R.No. 38906

Writ Appeal No. 1073 of 2019

&

C.M.P.No.7879 of 2019

RR(CO)
GN(14/08/2019)