

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P.s 36108 to 36112 of 2015

and

M.P.s 1 to 1 of 2015

B.Duraimurugan

... Petitioner
in W.P. 36108/2015

S.Chittibabu

... Petitioner
in W.P. 36109/2015

M.Geethalakshmi

... Petitioner
in W.P. 36110/2015

S.Aruna

... Petitioner
in W.P. 36111/2015

E.Sasikumar

... Petitioner
in W.P. 36112/2015

Versus

1. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.

2. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Nandanam Division,
Nandanam, Chennai-600 035.

... Respondents

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned notice of the 2nd respondent in Letter No.N.T.R.7/1471/2015, dated 13.10.2015 and quash the same and consequently forbear the respondents from in any way interfering with the peaceful possession and enjoyment of the rental quarters in HIG-1 Tamil Nadu Housing Board Raja Annamalaipuram Scheme, Srinivasa Avenue Road, Raja Annamalaipuram, Chennai-600 028.

For Petitioner : M/s. G.Hema for
Mr.Richardson Wilson

For Respondents : Mr.R.Bharathkumar
Standing Counsel

C O M M O N O R D E R

These Writ Petitions have been filed challenging the order passed by the respondents Housing Board directing the petitioners to vacate the premises as the Housing Board is proposed to demolish the same, and to construct new duplex houses.

2. The brief facts leading to the filing of these Writ Petitions are as follows :-

The Tamil Nadu Housing Board has constructed a tenements at R.K.Mutt Road in the year 1983. There are six H.I.G. duplex houses were constructed and allotted to Government servants as well as to the public. Since all the buildings are in a dilapidated condition, the respondents Housing Board decided to demolish the existing building, and to reconstruct new duplex houses for rent. Two Writ Petitioners were allotted house sites under the Government discretionary quota, and three writ petitioners were allotted under the public discretionary quota. In order to carry out the demolition, the impugned order has been passed by the respondents Housing Board directing them to vacate the premises. Notices were also issued to the petitioners to vacate the premises. Challenging the same, the present Writ Petition has been filed by the petitioners.

3. The 1st respondent has filed a counter affidavit stating that, the existing building was constructed in the year 1983, and allotted to the petitioners under the Government Discretionary quota as well as public discretionary quota. Since the buildings are in a dilapidated condition due to corrosion, cracking, spalling, leakage, seepage and dampness etc., the respondents Housing Board has decided to demolish the existing building, and to construct a new tenements. Now, the Housing Board has also informed the petitioners that an alternative allotment will be given to them at Tod Hunter Nagar. Instead of vacating the premises and hand over the possession, the petitioners have filed these Writ Petitions.. As on date, the petitioners have not vacated the premises.

4. Ms.G.Hema, learned counsel appearing for the petitioners would submit that, under the Tamil Nadu Housing Board Scheme, the Government has not issued any order in respect of a scheme

called R.K. Mutt Road scheme. Hence, the proposed scheme is not referring the tenements of petitioners, and there is no scheme for R.K.Mutt Road tenements.

5. Per contra, Mr.R.Bharathkumar, learned standing counsel appearing for the respondents Housing Board would submit that, the R.K.Mutt Road scheme, and the Tamil Nadu Housing Board scheme are one and the same. The Government has also issued G.O.Ms. No.122, Housing and Urban Development Department, dated 20.08.2019 to that effect. That apart, the petitioners are allotted house sites under the said scheme. Now, the respondents Housing Board has also provided alternative accommodation to the petitioners, instead of vacating the premises, they have filed the present Writ Petitions. In view of the pendency of these Writ Petitions, the respondents Housing Board is not able to proceed further.

6. Mr.R.Bharathkumar, learned standing counsel appearing for the respondents Housing Board would further submit that, the alternative accommodation allotted to the petitioners at Tod Hunter Nagar was also demolished. However, in respect of two Government servants, there is an alternative tenement available at M.K.B. Nagar, and they can be accommodated there. In respect of other three Writ Petitioners, who were allotted house sites under the public discretionary quota, there is no alternative accommodation available with the Government.

7. I have heard and considered the rival submissions made by the learned counsel appearing for the petitioners as well as the learned Standing Counsel appearing for the respondents Housing Board and perused the records carefully.

8. Admittedly, the petitioners are occupying the premises as tenants. Since the building is in a dilapidated condition, the respondents Housing Board wanted to demolish the building. It is now stated that at the time of passing the impugned order, the petitioners were given alternative accommodation at Tod Hunter Nagar, but they did not accept the same, and refusing to vacate the present premises, which cannot be accepted at all. In the above circumstances, I find, the petitioners cannot maintain Writ Petitions challenging the order passed by the respondents Housing Board. Therefore, I find no merit in these Writ Petitions.

9. However, considering the fact that, in respect of two Writ Petitions in W.P. Nos.36111 and 36112 of 2015, the petitioners are being Government servants, the respondents are directed to provide alternative accommodation, and the

petitioners are directed to approach the Government requesting to allot tenements available at M.K.B.Nagar. If any such representation is made, the Government is directed to consider their representations and pass suitable orders. So far as the remaining three Writ Petitions in W.P.s. 36108 to 36110 of 2015 are concerned, they were allotted houses under Government discretionary quota. Now, it is submitted that, there is no Government Discretionary quota available for those petitioners. Hence, the petitioners cannot seek alternative accommodation. However, if those petitioners are interested in alternative accommodation, it is open for them to approach the Government to allot alternative accommodation. If any such representation is made, and if any accommodation is available, the Government is directed to consider their representations to allot alternative accommodation for them. The petitioners are directed to vacate the premises within a period of twelve weeks from the date of receipt of the copy of this order. Accordingly, all these Writ Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.
2. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Nandanam Division,
Nandanam, Chennai-600 035.

+1cc to Mr.Richardson Wilson, Advocate SR.96449

W.P. 36108 to 36112 of 2015
and
M.P.s 1 to 1 of 2015

NR(CO)
CB(31/01/2020)