

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2019

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. No. 13334 of 2018
and WMP.No.15699 of 2018

1. G. Elumalai
2. C. Mathivanan
3. M. Anitha

... Petitioners

-vs-

1. State of Tamil Nadu,
Represented by its Secretary to Government,
Housing and Urban Development (HB5-2) Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2. The Tamil Nadu Housing Board,
Represented by its Managing Director,
493, Anna Salai, Nandanam,
Chennai - 600 035.

... 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 First Respondent pertaining to G.O. Ms. No. 118, Housing and Urban Development (HB5-2) Department, dated 04.07.2017 and quash the same and consequently forbear the Second 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 Petitioners : Mr. Richardson Wilson

For Respondents : Mr. R. Venkatesh for R1,
Government Advocate

Mr. R. Bharathkumar for R2

O R D E R

Heard Mr. Richardson Wilson, Learned Counsel for the Petitioner and Mr. R. Venkatesh, Learned Government Advocate for the First Respondent and Mr. R. Bharathkumar, Learned Standing Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners, who have been allotted apartments on tenancy basis in Thodhunter Nagar, Saidapet owned by the Second Respondent, has filed this Writ Petition challenging G.O. Ms. No. 118, Housing and Urban Development Department dated 04.07.2017 issued by the First Respondent increasing the rate of rent, and the method of its calculation has been mentioned in that order as follows:-

S. No.	Population (Towns/Cities)	Monthly rent	Maintenance Charges	Water Charge
1.	50 Lakhs and above	Rs.7.31/sq.ft. + 60% over and above of the base rate of Rs.11.70 per sq.ft.	Rs.1000/-	Water Charge will be fixed as per the amount paid to the Chennai Metropolitan Water Supply Board by the Tamil Nadu Housing Board

3. It is brought to the notice of this Court by the Learned Counsel for the Respondents that the aforesaid Governmental Order was the subject matter of challenge before the Learned Judge of this Court in W.P. No. 26919 of 2017 etc., batch, which was disposed by order dated 12.10.2018, holding as follows:-

"32. In view of the fact that the enhanced rent is not exorbitant or fixed beyond the market rent prevailing in Chennai City. More specifically, in the locality, where the petitioners are in occupation of the Government Rented Quarters, this Court is of an opinion that the impugned order deserves no interference. Further, in view of the fact that the learned Additional Advocate General brought to the notice of this Court that some of the petitioners have not paid the rent and committing default in payment of rent and some of the petitioners, who vacated the building have not paid the rent and some of the petitioners have not complied with the interim orders of this Court in respect of the payment of 50% of arrears of rent. It is further brought to the notice of this Court that in respect of the dilapidated houses unfit for dwelling, the respondents had issued notices to the tenants. On account of the present writ petitions, further actions are kept in abeyance. Thus, the following orders are to be passed in the interests of all concerned.

(i) The impugned order passed by the 1st respondent in G.O.Ms.No.118, Housing and Urban Development (HB5-2) Department dated 04.07.2017 stands confirmed.

(ii) The petitioners, who all are in occupation of

the dilapidated houses, unfit for dwelling are to be evicted pursuant to the notices issued to them with reference to the conditions stipulated in the allotment.

(iii) The respondents are directed to verify the eligibility criteria of all those occupants under discretionary quota and if it is found that the allotments were made contrary to the purposes, objects and the terms and conditions of the Government orders, then initiate immediate action for eviction of all those illegal or irregular occupants.

(iv) In respect of the petitioners, who have not paid the monthly rent and not vacated the premises, the respondents are directed to initiate all further actions to recover the arrears of rent and other statutory charges by following the procedures as contemplated under law.

(v) In respect of the petitioners, who have not complied with the interim order of this Court by depositing 50% of the arrears of rent, the respondents are directed issue notice as contemplated and accordingly, evict all those petitioners by following the procedures within a period of four weeks from the date of receipt of a copy of this order.

(vi) The petitioners, who all are the defaulters in payment of rent and continuing the Government Rented Quarters are also to be evicted by following the procedures as contemplated under law.

(vii) In respect of the existing Government Rental accommodations, the respondents are directed to maintain the same properly and in accordance with the Maintenance Rules without any default.

(viii) The respondents are directed to complete the said exercise within a period of twelve weeks from the date of receipt of a copy of this order."

The said order was further taken in appeal by the unsuccessful Petitioners in those cases and was upheld by order dated 22.04.2019 in W.A. No. 535 of 2019 etc., batch, and the relevant portions from that order are extracted below:-

"6. The learned Standing Counsel for the respondent-TNHB has brought to our notice that the Government servants who have been allotted quarters under the Tamil Nadu Government Rental Housing Scheme (TNGRHS) are paying three times more than the rent payable by the appellants who have secured allotments under ? public quota?. Furthermore, it is the submission of the learned counsel that all the appellants are in arrears of rent and they have not paid the increase with effect from 1993 onwards. Further, the stand of

learned Standing Counsel is that there is no discrimination and all the public quota allottees have been uniformly informed about the increase in rent and considering the location of the property and other facilities in and around the area, the increase in rent is reasonable, just and proper.

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."

4. In view of the same, the Writ Petition is disposed of in terms of the order dated 12.10.2018 in W.P. No. 26919 of 2017 etc., batch, as confirmed by order dated 22.04.2019 in W.A. No. 535 of 2019, etc., batch. However, it is made clear that in the event of the Petitioner failing to comply with the directions mentioned in the aforesaid order within the time limit prescribed, it is open to the Respondent to pursue further action in accordance with law. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Housing and Urban Development (HB5-2) Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Managing Director,
The Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai - 600 035.

+1 cc to M/s.R.Bharath Kumar,Advocate Sr.No. 72581
+1 cc to The Government Pleader Sr.No.73432

AKM/17.09.19/4P-5C /

W.P. No. 13334 of 2018