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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM

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

W.P. No. 22143 of 2019
and

W.M.P. No. 21414 of 2019

Sree Amman Matriculation
Higher Secondary School,
Rep by its correspondent
Mrs. T. Jayalakshmi,
E.V.K. Sampath Nagar,
Erode.

... Petitioner

-vs-

1. State of Tamil Nadu,
Rep by its Principal Secretary
Housing and Urban Development Department,
Secretariat, Fort St. George
Chennai - 600 009.
2. The Managing Director,
Tamil Nadu Housing Board,
493, Nandanam, Anna Salai,
Chennai - 600 035.
3. The Chief Revenue Officer,
Tamil Nadu Housing Board,
493, Nandanam, Anna Salai,
Chennai - 600 035.
4. The Executive Engineer and
Administrative Officer,
Erode Housing Unit,
Tamil Nadu Hosuing Board,
Soorampatti, Erode - 638 009.
5. The Assistant Revenue Officer,
Erode Housing Development Section,
Tamil Nadu Hosuing Board,
Soorampatti, Erode - 638 009.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records relating to impugned letter No.R.3/9070/98 dated 15.07.2019 on the file of the Fourth Respondent quash the same consequently directing the Fourth Respondent to conduct enquiry as per the direction issued by an order 01.02.2019 passed by this Court in W.P. No. 2933 of 2019.

For Petitioner : Mr. R.Ezhilarasan.

For Respondents: Mr. R. Venkatesh
Government Advocate for R1
Mr. R.Bharathkumar for R2 to R5.

O R D E R

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

2. The Petitioner, who is in occupation of the land belonging to the Tamil Nadu Housing Board, was called upon by notices dated 05.09.2018 and 11.01.2019 to pay a sum of 2,36,33,065/- towards arrears of rent including penal interest, which was challenged in W.P. No. 2933 of 2019. The said Writ Petition was disposed by order dated 01.02.2019 setting aside the aforesaid notices demanding payment of arrears of rent and the matter was remitted to the Fourth Respondent to reconsider the issue by giving fresh notice to the Petitioner and after affording sufficient time and opportunity of personal hearing to him, the amount payable by the Petitioner was directed to be arrived within a period of eight weeks from the date of receipt of copy of that order. Thereafter, the Fourth Respondent by an order dated 02.04.2019 held that the Petitioner was liable to pay a sum of Rs. 2,59,07,248/-, and it is informed that the Petitioner has preferred an appeal under Section 86 of the Tamil Nadu Housing Board Act, 1961, before the First Respondent against the same. In the meanwhile, the Fourth Respondent by letter No. R3/9070/98 dated 15.07.2019 requested the Superintendent of Police, Erode to grant police protection for carrying out eviction of the Petitioner from the property in his occupation under Section 84 of the Tamil Nadu Housing Board Act, 1961. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging that letter and for consequential direction to the Fourth Respondent to conduct enquiry as per the order dated 01.02.2019 in W.P. No. 2933 of 2019 passed by this Court.



3. At the time when the matter came up for admission before this Court on 26.07.2019, status quo as on the date was directed to be maintained. It was then represented on behalf of the First Respondent that the date of hearing of the appeal filed by the Petitioner before the First Respondent could not be fixed as the records from the Second to Fifth Respondents had not been received. It has been brought to the notice of this Court during the subsequent hearings that enquiry in the appeal had been fixed before the First Respondent on 09.08.2019, 06.09.2019 and 04.11.2019. Learned Counsel appearing for the Second to Fifth Respondents, on instructions, states that the outcome of the appeal before the First Respondent for fixing the amount of rent due from the Petitioner would be awaited before proceeding to take any further action for eviction of the Petitioner from the property. A memo has been filed to that effect, which is recorded.

4. In the light of the aforesaid submissions made, it is incumbent upon the First Respondent to determine the amount due by the Petitioner towards arrears of rent claimed by the Second to Fifth Respondents for the property in terms of the order dated 01.02.2019 in W.P. No. 2933 of 2019 passed by this Court, and the Second to Fifth Respondents shall not take any steps for evicting the Petitioner from that property till the appeal is finally decided by the First Respondent. Depending upon the outcome of that appeal, it would be open to the Petitioner and the Second to Fifth Respondents to work out their respective future course of action in the matter in accordance with law.

5. The Writ Petition is disposed on the aforesaid terms. Consequently, the Connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS)

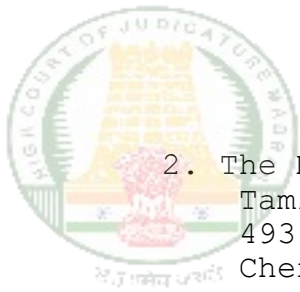
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Sub Assistant Registrar

kv/maya

To

1. The Principal Secretary
Housing and Urban Development Department,
Secretariat, Fort St. George
Chennai - 600 009.



2. The Managing Director,
Tamil Nadu Housing Board,
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+1cc to Mr.R.Bharathkumar, Advocate SR.No.97128

+1cc to Government Pleader SR.No.97097

W.P. No. 22143 of 2019

SV(CO)
GMY(09/01/2020)