

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2019

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.A.No.3885 of 2019

and

C.M.P.No.24402 of 2019

B.Maragatha Mani

.. Appellant/Petitioner

-vs-

1.The State of Tamil Nadu,
rep.by the Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George,
Chennai-600 009

2.The Chairman and Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai, Nandanam,
Chennai-600 035

3.The Executive Engineer,
Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandanam,
Chennai-600 035

4.Asst.Executive Engineer,
Tamil Nadu Housing Board,
Mandavelipakkam,
Chennai-600 028

5.The Junior Engineer,
Tamil Nadu Housing Board,
Mandavellipakkam,
Chennai-600 028

.. Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 18.10.2019 passed in W.P.No.11160 of 2019 on the file of this Court.

Prayer in WP.11160 of 2019:

Writ Petition filed under Article 226 of Constitution of India seeking for a writ of certiorarified mandamus calling for the records of the 1st respondent in letter No.22452/LA 3(1) of 2017 -17 dated 28/02/2019 and quash the same and consequently direct the respondents 2-5 to re- allot the suit schedule premises to the petitioner.

For Appellant : Mr.B.Sundar

For Respondents 2 to 5 Ms.Dr.R.Gouri for TNHB

JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

Heard Mr.B.Sundar, the learned counsel for the appellant and Dr.R.Gouri, the learned counsel appearing for the respondents/Tamil Nadu Housing Board.

2.The issue raised is that the learned Single Judge has exceeded in jurisdiction in issuing directions even after dismissing the writ petition, which was impermissible in law, and even otherwise, on the merits of the case, the continuous possession of the appellant having been established on the basis of rent receipts and other material evidence, the learned Single Judge committed an error in refusing to interfere with the appellate order.

3.The learned counsel for the appellant contends that the manner in which the respondents have acted was sufficient for the learned Single Judge to have exercised the extraordinary jurisdiction under Article 226 of the Constitution of India for the purpose of quashing an order that otherwise was not based on a sound reasoning of law and after correct appreciation of facts.

4.We have considered the submissions raised and heard the learned counsel appearing for the Tamil Nadu Housing Board.

5.The learned Single Judge has categorically indicated that the appellant had failed to bring on record any document to establish the existence of a valid lease, and therefore, in the absence of lease, the appellant cannot be extended any benefit as prayed for.

6.We also find that for the purpose of exercise of a discretion under Article 226 of the Constitution of India, a person coming before this Court should have, at least, a semblance of right in order to invoke extraordinary jurisdiction.

7.A mere possession of certain rent receipts would not justify an occupation, which otherwise could not be proved to be lawful. In such circumstances, if any further action has been taken by the Housing Board to remove the effects the same would be only consequential and such act cannot be made a ground in order to recognize the occupation of the appellant, which otherwise does not appear to be lawful. Consequently, no case is made out for interference with the order of the learned Single Judge. Accordingly, the writ appeal stands dismissed. No costs. Connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

msk

To

- 1.The Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Chennai-600 009
- 2.The Chairman and Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai, Nandanam,
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- 3.The Executive Engineer,
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- 4.Asst.Executive Engineer,
Tamil Nadu Housing Board,
Mandavelipakkam,
Chennai-600 028

5.The Junior Engineer,
Tamil Nadu Housing Board,
Mandavellipakkam,
Chennai-600 028.

W.A.No.3885 of 2019

CP(SO)
CSR: 10/12/2019