



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.2071 of 2015
and
M.P(MD)No.1 of 2015

Subban

... Petitioner

-Vs-

The Executive Engineer,
Thanjavur Housing Board,
Thanjavur.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Letter in R2/000189/14 dated 28.11.2014 on the file of the respondent and quash the same as illegal and consequently the respondent to issue necessary orders for handing over the house to the petitioner within the time frame fixed by this Court.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondent : No Appearance

ORDER

The impugned order, dated 28.11.2014, passed by the respondent fixing the rent from July 2010 to August 2013 and directed the writ petitioner to pay the arrears of rent with reference to his occupation of the allotted Tamil Nadu Housing Board Residence in M1/81, is under challenge in the present writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is employed as a Skilled Assistant in the office of the District Differently Abled Officer, Thiruppur. The respondent allotted a house to the writ petitioner at Nagapattinam in the month of June 2010. He occupied the house in the month of June 2010 and the House Rent Allowance of Rs.440/- per month was regularly deducted from his salary and credited to the account of the Tamil Nadu Housing Board. There was no arrears of rent and the office of the writ petitioner promptly deducted the House Rent Allowance from the salary of the writ petitioner and paid the same to the Tamil Nadu Housing Board.



3. The writ petitioner was transferred to the office of the District Differently Abled Officer, Thiruppur in the month of August 2013 and he joined the office at Thiruppur in the month of August 2013. Even for the month of August 2013, the employer of the writ petitioner deducted the House Rent Allowance and remitted the same to the respondent. At the time of transfer from Nagapattinam to Thiruppur, the daughter of the writ petitioner was studying in 10th standard at Natarajan Thamayanthi Higher Secondary School, Nagapattinam. Since the daughter of the writ petitioner was studying in 10th standard at Nagapattinam, the writ petitioner was unable to vacate the house at Nagapattinam immediately and he vacated the house after three months. The writ petitioner states that till February 2014, he was in occupation of the Tamil Nadu Housing Board quarters at Nagapattinam and thereafter, vacated the same on 03.02.2014. In spite of that, the respondent has issued the order impugned stating that the petitioner is liable to pay the arrears of rent at Rs.28,802/-. This Court is of the considered opinion that the date of occupation reckoned in the impugned order as well as the date of occupation stated in the affidavit filed in support of the writ petition are contradictory.

4. Under these circumstances, the respondent is directed to verify the documents maintained by the Tamil Nadu Housing Board and accordingly, fix the correct rent as applicable to the quarters occupied by the writ petitioner and accordingly, if any arrears to be paid, issue a revised orders to the writ petitioner directing him to pay the arrears within a period of eight weeks from the date of receipt of the copy of the order, to be issued by the respondents. The respondent is directed to verify the records carefully and fix the arrears of rent to be paid by the writ petitioner, if any and accordingly, pass orders within a period of six weeks from the date of receipt of a copy of the order. However, it is made clear that in the event of fixing the arrears of rent to be paid by the respondents, the writ petitioner is bound to pay the same and mere representation now cited as a document cannot be accepted by this Court and the date of handing over the possession must be properly recorded and in the absence of any such recording, the petitioner cannot claim any waiver of rent to be paid to the Tamil Nadu Housing Board. Accordingly, the respondent is directed to pass suitable orders as directed above.

5. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar



To

The Executive Engineer,
Thanjavur Housing Board,
Thanjavur.

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12.07.2019

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