

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.01.2020

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.21977 of 2013
and
M.P.Nos.1 to 3 of 2013

R.Sami

Petitioner

Vs

1.The Chairman,
Tamil Nadu Housing Board,
Nandanam,
Chennai.

2. The Executive Engineer
& Administrative Officer,
Anna Nagar Division,
Tamil Nadu Housing Board,
Thirumangalam,
Chennai - 600 101.

3. S. Thangaraj

Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India seeking for an issuance of a writ of Certiorarified Mandamus to call for the records relating to the order passed by the 2nd respondent herein vide his proceedings Letter No. A.No.Ko.9/6575/1986, dated 16.07.2013 and quash the same and thereby direct the respondents to recognise and regularise the allotment of shop No.2, Plot No.1506-A, 16th Main Road, TNHB Shopping Complex Anna Nagar (West), Chennai - 40 in the name of the petitioner enabling the petitioner to pay the rent for the said shop by furnishing true and proper account in respect of payments made by the petitioner for the period from the January 2010 to till date.

For Petitioner : Mr.A.R.Suresh

For Respondents: Mr.R.Bharath Kumar
for TNHB

ORDER

The instant writ petition has been filed challenging the order dated 16.07.2013 passed by the second respondent

cancelling the petitioner's allotment of shop bearing No.2, Plot No.1506-A, 16th Main Road, TNHB Shopping Complex Anna Nagar (West), Chennai - 40 and directing him to vacate the said shop.

2.It is the case of the petitioner that he is a lawful tenant ever since 1996. According to him, he has been having his advocate office in the office space since 1996 and paying the rent to the Tamil Nadu Housing Board without any default and he has also been paying the periodical increased rent. It is his case that the second respondent has unlawfully issued the order impugned order dated 16.07.2013 calling upon the petitioner to pay a sum of Rs.1,68,191/- within 10 days towards arrears of rent otherwise he will be evicted on 07.08.2013. Aggrieved by the impugned order, this writ petition has been filed.

3. A counter affidavit has been filed by all the respondents. According to them, the shopping complex in which the petitioner's shop is located, is structurally not in a good condition. It is their case that building is in a dilapidated condition. According to them, due to the unstable nature of the building, the Board has taken a decision in Board's resolution No.9.06 of 30.10.2009 to demolish and reconstruct and to re-allot the same to the original allottees/tenants but not to the unauthorised occupiers. According to them, since the building is in a dilapidated condition and it may fall at any time, they have issued eviction notice to all the occupiers of the building complex and have requested them to vacate their respective shops. In the counter affidavit, they have also stated that the Board has passed a resolution No.9.06 dated 30.10.2009 referred to above to demolish and reconstruct the dilapidated shop building with an assurance to the tenants/original allottees that they will be given priority in allotment on rental basis in the newly constructed complex. The respondents have also stated that in a similar writ petition filed by another tenant in W.P.No.23755 of 2011, this Court by its Order dated 18.10.2011 passed the following order:

"4.In view of the fact that the said resolution has already been passed, the apprehension expressed by the petitioner is untenable. Hence, the writ petition is disposed of giving direction to the petitioner to vacate the shop No.1,14 Shopping Complex, H-Block, Anna Nagar East, Chennai - 600 040 and after completion of demolition and reconstruction of the shopping complex, the Board is directed to consider the petitioner's request in terms of the Board's resolution stated supra."

4. Admittedly, the Shopping complex at No.2, Plot No.1506-A, 16th Main Road, TNHB Shopping Complex Anna Nagar (West), Chennai - 40 in which the petitioner's shop is located, is in a dilapidated condition. A resolution has also been passed by the Tamil Nadu Housing Board in resolution No.9.06 dated 30.10.2009. As per the Board's resolution, the Tamil Nadu Housing Board has decided to demolish the shopping complex and after reconstruction, give priority to the existing occupants/original allottees of the shopping complex, while making allotment of shops. In a similar case, as seen from the counter affidavit filed by the respondents, this Court, after recording the Board's resolution passed by the Tamil Nadu Housing Board, has passed the following order:

"4. In view of the fact that the said resolution has already been passed, the apprehension expressed by the petitioner is untenable. Hence, the writ petition is disposed of giving direction to the petitioner to vacate the shop No.1,14 Shopping Complex, H-Block, Anna Nagar East, Chennai - 600 040 and after completion of demolition and reconstruction of the shopping complex, the Board is directed to consider the petitioner's request in terms of the Board's resolution stated supra."

5. Since the Tamil Nadu Housing Board has given an undertaking as seen from the resolution dated 30.10.2009 that all the existing authorized occupants will be given priority in allotment of shops in the newly constructed complex, the apprehension expressed by the petitioner is untenable. Further, the existing building is structurally not sound and is in dilapidated condition. This being the case, without going into the merits of the impugned demand, this Court is of the considered view that being a dilapidated building, if the petitioner is allowed to remain in possession of his office space, it may cause danger not alone to him but also to the other occupants of the shopping complex as the respondents have categorically stated that the building may fall at any time due to its dilapidated condition. Hence, the petitioner cannot be allowed to remain in possession of his office space in the shopping complex which is the subject matter of this writ petition.

6. Accordingly, as per the direction dated 08.11.2011 issued by this Court in W.P.No.25586 of 2011 in an identical matter involving another tenant in the same shopping complex, this Court disposes of this writ petition by giving a direction to the petitioner to vacate the shop No.2, Plot No.1506-A, 16th Main Road, TNHB Shopping Complex Anna Nagar (West), Chennai - 40 on or before 31, March, 2020 and the

respondents, after completion of the demolition and reconstruction of the shopping complex, are directed to consider the petitioner's request in terms of the Board's resolution No.9.06 dated 30.10.2009. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

vsi2

To

1.The Chairman,
Tamil Nadu Housing Board,
Nandanam,
Chennai.

2. The Executive Engineer
& Administrative Officer,
Anna Nagar Division,
Tamil Nadu Housing Board,
Thirumangalam,
Chennai - 600 101.

+lcc to Mr.A.R.Suresh, Advocate, S.R.No. 373

+lcc to Mr.R.Bharath Kumar, Advocate, S.R.No. 823

W.P.No.21977 of 2013

and

M.P.Nos.1 to 3 of 2013

SJ(CO)

GN(18/02/2020)

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