

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2020

C O R A M

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.24658 of 2013

S.M.H.Peeran

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Petitioner

Vs.

The Revenue Officer,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandhanam,
Chennai - 600 035.

....

Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records in connection with the impugned order dated 10.06.2013 bearing No.vava2/44189/12 passed by the respondent and quash the same.

For Petitioner : Mr.Mohammed Fayaz Ali

For Respondent : Mr.R.Bharathkumar,
Standing Counsel

ORDER

This writ petition has been filed challenging the eviction order dated 13.06.2017 passed in No.va.va.2/44189/2012 by the respondent

2. It is the case of the petitioner that his wife, Mrs.Hanifa Bi was the original allottee in respect of rental apartment bearing No.RI, Lloyds Colony, Royapettah, Chennai - 600 014. According to the petitioner, his wife died on 02.10.2011 and subsequent to her death, he has been in lawful possession and enjoyment of the aforesaid property. According to him, he has been paying the rent regularly to the Tamil Nadu Housing Board without committing any default. According to him, all of a sudden, the respondent issued a show cause notice dated 24.12.2012 addressed to his deceased wife as to why she should not be evicted for the reason that the property was being kept unused and locked. According to him, a reply was sent by him for the show cause notice dated 24.12.2012 on 22.01.2013 stating that her wife, the original allottee died on 02.10.2011 and since her death, he has been in lawful possession and enjoyment of the property and requested them to execute an allotment in favour of him. According to him, the respondent did not consider the said reply and issued an

eviction order dated 10.06.2013. Aggrieved by the same, this writ petition has been filed.

3. Heard Mr.Mohamed Fayaz ali, learned counsel for the petitioner and Mr.R.Bharathkumar, learned standing counsel for the respondent.

4. The learned counsel for the respondent submitted that the petitioner is an unauthorised occupant. According to him, as per the resolution No.11.04 dated 21.07.1997 of the Tamil Nadu Housing Board, once the original allottee dies, the property will have to be handed over to the Tamil Nadu Housing Board within six months from the date of his or her death. According to him, since the petitioner who is the husband of the original allottee has not handed over possession of the property to the Tamil Nadu Housing Board as per the aforesaid resolution, he is an unauthorised occupant and hence, not entitled for any protection.

5. The learned counsel for the respondent drew the attention of this court to the Division Bench Judgment of this Court dated 04.02.2015 passed in W.A.No.1722 of 2012 in the case of Ambrish Ashok Pathak vs. Tamil Nadu Housing Board and others reported in 2015 SCC OnLine Mad 2553 and submitted that the resolution passed by the Tamil Nadu Housing Board namely resolution No.11.04 dated 21.07.1997 has held to be a valid resolution. He referred to the following paragraph which was extracted in the aforesaid Division Bench Judgment:

"The decision taken by the Housing Board not to transfer the allotment under the public rental category was with a specific purpose. It was a decision taken in larger public interest. There are many people in the queue, claiming such allotment. It is only when the houses are vacated, the Housing Board would be in a position to consider their request for allotment. In case existing allotments are transferred from the name of original allottee to the legal heirs and thereafter, to the next generation, the property would continue to be in the hands of chosen few and others would be denied of such accommodation. Therefore, an element of social objective was behind the decision taken by the Board not to permit transfers to the legal heirs. We do not find any illegality in the said policy decision warranting our interference. The application submitted by the appellant was rejected on valid reasons, in the light of the prevailing policy of the Board. The matter was considered once again by the Government and the plea was again rejected. The issue was re-examined by the learned Single Judge and arrived at a correct conclusion that the order does not

warrant interference. We do not find any justifiable reason to take a different view in the matter."

6. It is now settled law that the resolutions passed by the Tamil Nadu Housing Board that on the death of the original allottee, the possession of the property will have to be handed over to the Tamil Nadu Housing Board within a period of six months are valid.

7. In the case on hand, admittedly the petitioner's wife is the original allottee who died and after her death, the petitioner instead of handing over possession of the property to the Tamil Nadu Housing Board within a period of six months from the date of her death in accordance with the resolution passed by the Tamil Nadu Housing Board, has continued to remain in possession of the property. Since the petitioner being a senior citizen aged above 70 years, this Court is of the considered view that sufficient time will have to be given to the petitioner to vacate the apartment.

8. For the foregoing reasons, there is no merit in this writ petition. Accordingly, this writ petition is dismissed. However, this Court directs the petitioner to vacate the property and hand over the same to the Tamil Nadu Housing Board within four months from today (30.01.2020). No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Revenue Officer,
The Tamil Nadu Housing Board,
No.493, Anna Salai,
Nandhanam,
Chennai - 600 035.

+1cc to Mr.Mohamed Riyaz , Advocate SR.No. 7512
+1cc to Mr.R.Bharathkumar , Advocate SR.No. 8154

W.P.No.24658 of 2013

A.SK(20/02/2020)