

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
W.P.No.31821 of 2013
and M.P.No.1 of 2013
(Heard Through VC)

Bhagawathy

..Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai-600 035.

2. The Revenue Officer,
Tamil Nadu Housing Board,
Anna Salai, Nandanam,
Chennai-600 035.

.... Respondents

* * *

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus
forbearing the respondents and their subordinates from evicting
the petitioner from her flat bearing Flat No.F-6, MIG Block,
Foreshore Estate, Chennai-600 028.

* * *

For Petitioner : Mr.L.Mouli

For Respondents : Mr.R.Bharat Kumar
Standing Counsel
TWHB

ORDER

The petitioner has filed this writ petition seeking a writ
of Mandamus forbearing the respondents and their subordinates
from evicting her from the flat bearing Flat NO.F-6, MIG Block,
Foreshore Estate, Chennai-600 028.

2. The petitioner's husband late Srinivasan was in
Judicial service and served as Special Judge of EC and NDPS
Cases Court. While in service, he was allotted the petition
mentioned flat under Government Rental Housing Scheme. He
retired on 31.01.1995 and thereafter, died on 19.08.2000. After
the demise of her husband, the petitioner along with her son was

residing in the said flat by paying the monthly rent without default. As the respondents attempted to evict her from the said premises without following due process of law, the son of the petitioner filed a suit in O.S.No.7688 of 2011 seeking a permanent injunction restraining the respondents from evicting them from the flat without adopting due process of law. The suit was decreed on 19.11.2012 and there was no appeal preferred against the same. According to the petitioner, she had not received any notice of eviction from the respondents, but an official from the Tamil Nadu Housing Board came in person to her residence on 19.11.2013 and asked her to handover the possession of the flat immediately. Hence, the petitioner's son issued a legal notice on 20.11.2013 enclosing the copy of the judgment obtained by them. As there was a threat of eviction, the instant writ petition had been filed.

3. Mr.R.Bharath Kumar, learned counsel for the respondents contended that eviction process will commence by issuing a notice as mandated under Section 84(1) of the Tamil Nadu Housing Board Act, 1961. In view of the policy decision taken by the respondents in Resolution No.11.04 dated 21.07.1997 to the effect that after the death of the original allottee, the premises shall not be extended in favour of the legal heirs. However, the petitioner was allowed to occupy the premises till 18.02.2001 by giving her extension of time to stay in the premises and thereafter, from the year 2001, the occupation of the petitioner is only unauthorized. Though the petitioner has been paying the rent regularly, the use and unauthorized occupation of the premises attract penalty and the penal rent from 2001 till 30.11.2013 itself is Rs.9,72,262/-, which is also payable by the petitioner. Hence, it was argued that the petitioner, who is occupying the Government Rental Housing Scheme, which is intended for the persons, who are in service, cannot be allowed to continue and she has to vacate and handover the possession.

4. Heard the learned counsel on either side and perused the materials placed before this Court.

5. It is pointed out that an additional affidavit was filed by the petitioner before this Court on 28.11.2013. The said affidavit was filed pursuant to the direction of this Court earlier seeking time-frame within which, the petitioner could vacate and handover the possession of the flat to the respondents. In the said affidavit of undertaking, the petitioner has agreed to vacate and handover the possession of the subject flat within a period of eighteen months from 28.11.2013. The reason for seeking eighteen months to vacate the flat was that her son had then just completed his Engineering Course and joined an automobile company in Pune and he would

return only after the mandatory training of an year. Therefore, considering the plight of the petitioner, the undertaking affidavit was kept on record. As per the undertaking affidavit, the petitioner should have vacated the premises in the month of May, 2015. It is stated by the learned counsel for the respondents that till today, the premises is in occupation by te petitioner only. As stated earlier, despite extension of more than five years by the respondents themselves and thereafter, from 2001, the premises has been in occupation of the petitioner without any authority and thus, the petitioner cannot have any indulgence from this Court and the writ petition does not have any merit.

6. In the result, the writ petition is dismissed. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Managing Director,
Tamil Nadu Housing Board,
Annasalai, Nandanam,
Chennai-600035.

2.The Revenue Officer,
Tamil Nadu Housing Board,
Nandanam,
Chennai-600035.

+1cc to Mr.L.Mouli, Advocate in SR.26360

WEB COPY

W.P.No.31821 of 2013

NRL (CO)
RV (10/09/2020)