

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.12.2020

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.A.Nos.1124 to 1128 of 2020
and
C.M.P.Nos.13676, 13689, 13690,
13692 & 13694 of 2020

Mano Xerox,
rep. by his Proprietor,
Mrs.Sapanas Begam,
Shop No.8,
G-133, Chinthamani Complex,
Anna Nagar East,
Chennai 600 102. Appellant in WA 1124/2020

J.H.Cool Bar,
Proprietor C.Vellaisamy
Shop No.3,
G-133, Chinthamani Complex,
Anna Nagar East,
Chennai 600 102. Appellant in WA 1125/2020

Muthu News Mart,
rep. by its Proprietor A.Subramanian
Shop No.5, G-133,
Chinthamani Complex,
Anna Nagar East, Chennai 600 102. Appellant in WA 1126/2020

Chinthamani Tea Stall,
rep. by its Proprietor C.Velusamy,
Shop No.1 G-133,
Chinthamani Complex,
Anna Nagar East,
Chennai 600 102. Appellant in WA 1127/2020

I.A.R.Pandian,
rep. by its Power Agent C.Natesan
G-133, Chinthamani Complex,
Anna Nagar East, Chennai 600 102. Appellant in WA 1128/2020

Versus

1. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 015.

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

Respondents 1 & 2 in all 5 cases

A.Madasamy R3 in W.A.No.1124/2020

E.Aravarasan R3 in W.A.No.1125/2020

Rangarajulu Naidu R3 in W.A.No.1126/2020

Meyyappan R3 in W.A.No.1127/2020

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent against the order dated 8.9.2020 in W.P.Nos.11452 of 2020, 11449 of 2020, order dated 20.11.2020 in W.P.No.12019 of 2020, order dated 8.9.2020 in W.P.No.11451 of 2020 and order dated 20.11.2020 in W.P.No.10905 of 2020 passed by this court.

Writ Petition No.11451/2020 is filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records of the 2nd respondent pertaining to the notice A.No.A.II.3/1531/957 dated 21.07.2020 and quash the same and to direct the respondents to consider the representations of the petitioner dated 28.07.2020 and quash the same and to direct the respondents to consider the representations of the petitioner dated 28.07.2020 seeking for re-allotment of a shop on lease or sale basis on demolition and reconstruction of the existing commercial complex known as "Chinthamani Co-operative Society Complex" at Plot No.586, 587 and 568, Chintamani Anna Nagar East, Chennai - 600 102, pursuant to and in terms of the Board Resolution dated No.9.06 dated 30.10.2009.

Writ Petition No.11452/2020

To call for the records of the 2nd respondent pertaining to the notice A.No. A.II.3/ 685A / 86 dated 21.07.2020 and quash the same and to direct the respondents to consider the Representations of the Petitioner dated 28.07.2020 seeking for re- allotment of a shop on lease or sale basis on demolition and reconstruction of the existing commercial complex known as Chinthamani Co-operative Society Complex at Plot No. 586 587 and 568 Chinthamani Anna Nagar East Chennai- 600 102 pursuant

to and in terms of the board Resolution dated No. 9.06 dated 30.10.2009 and / or pass.

WP.11449/2020:

To call for the records of the 2nd respondent pertaining to the notice A.No. A.II.3/ 9497/ 95 dated 21.07.2020 and quash the same and to direct the respondents to consider the Representations of the Petitioner dated 28.07.2020 seeking for re- allotment of a shop on lease or sale basis on demolition and reconstruction of the existing commercial complex known as Chinthamani Co-operative Society Complex at Plot No. 586 587 and 568 Chinthamani Anna Nagar East Chennai- 600 102 pursuant to and in terms of the board Resolution dated No. 9.06 dated 30.10.2009 and / or pass.

WP.12019/2020:

to call for the records of the 2nd respondent pertaining to the notice No. A. II.3/ 3785/ 83 dated 16.07.2020 and quash the same and to direct the respondents 1 and 2 consider the representations of the petitioner dated 28.07.2020 seeking for re allotment of a shop on lease or sale basis on demolition and reconstruction of the existing commercial complex known as Chinthamani Cooperative Society complex at Plot No.586 587 and 568 Chintamani Anna Nagar East Chennai- 600 102 pursuant to and in terms of the Board resolution dated No.9. 06 dated 30.10.2009

WP.10905/2020:

To call for the records of the Respondents pertaining to the notice A.No.A.II.3 15069 18 dated 21.07.2020 and quash the same and to direct Respondents to consider the Representations of the Petitioner dated 28.07.2020 seeking for re-allotment of a shop on lease or sale basis on demolition and reconstruction of the existing commercial complex known as `` Chinthamani Co-operative Society Complex`` at Plot No.586 587 and 568 Chinthamani anna Nagar East Chennai 600 102 pursuant to and in terms of the Board Resolution dated No.9.06 dated 30.10.2009.

For Appellants: Mr.S.Thanka Sivan for

Mr.N.A.Kareem

For RR1 and 2 : Mr.P.H.Arvinth Pandian, AAG attested by

Mr.R.Bharathkumar

COMMON JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

These intra-court Appeals have been filed against the order dated 8.9.2020 and 20.11.2020 passed by the learned Single Judge of this court dismissing W.P.Nos.11449, 11451, 11452 of 2020

(filed by J.H.Cool Bar represented by its Proprietor Mr.C.Vellaisamy, Chennai and few others) and W.P.Nos.10905 and 12019 of 2020 (filed by I.A.R.Pandian and Muthu News Mart) seeking a relief of extension of time for eviction of their shops which were sought to be evicted by the Respondents Notice dated 21.7.2020 and the learned Single Judge was pleased to to grant time period upto 7.12.2020 to vacate their shops so that the intended re-construction by the Tamil Nadu Housing Board can come up at the site in question.

2. The learned counsel Mr.S.Thankasivan appearing for the Appellants sought to rely upon the order passed by the Hon'ble Supreme Court in the case of M/s.Arun Snack Bar v. The Managing Director of Tamil Nadu Housing Board and another dated 4.12.20020 in S.L.P.No.14548 of 2020 arising out of the order dated 10.11.2020 passed in similar Writ Appeal No.1041 of 2020 by this court in which, in similar circumstances, where the learned counsel appeared for the Writ Appellant, Mr.Haja Mohideen Gisthi made only a prayer, without assailing the order of the learned Single Judge on merits, to extend the time for eviction which had expired on 7.11.2020 upto 7.12.2020 and the learned counsel in that matter only sought a mercy for extension of time from this court without the rights of the parties being ascertained and despite the objections raised by the learned Additional Advocate General, Mr.Arvinth Pandian, which is recorded in para 2 of the order that subject to the condition of no further extension of time and payment of arrears, he agreed that the time can be extended only upto 7.12.2020 as prayed by the learned counsel. Recording the said submissions, the order dated 10.11.2020, W.A.No.1041 of 2020 was disposed of and the time for eviction was extended upto 7.12.2020.

3. It appears that despite the aforesaid order dated 11.12.2020 passed on a mutual agreement and conditions imposed therein, the order of this court dated 10.11.2020 was assailed before the Hon'ble Supreme Court and taking a lenient view, the Hon'ble Supreme Court further extended the time upto 31st March 2021 in favour of M/s.Arun Snack Bar. Now, the said order of Hon'ble Supreme Court is sought to be relied upon by the learned counsel for the Appellants before us in the present Writ Appeals in other cases also seeking a similar extension of time upto 31.3.2021.

4. The order of the Hon'ble Supreme Court passed in exercise of Special Jurisdiction under Article 136 read with Article 142 of the Constitution of India and the Hon'ble Supreme Court in their Lordships' discretion, extended time for vacating upto 31.3.2021.

5. Even though in that matter itself, time was extended upto 7.12.2020 on the own concession and agreement of the learned counsel Mr.Haja Mohideen Gisthi, who appeared for the

Appellant before us and the only prayer made was for granting time upto 7.12.2020. Perhaps, this fact may not have been highlighted by the different counsels who appeared before the Hon'ble Supreme Court.

6. We cannot extend the time limit in all such cases as it is likely to seriously prejudice the development or construction work which the Tamil Nadu Housing Board intends to take up on the site in question. On the contrary, we feel that the Petitioner and Writ Appellant in such cases are indulging in abuse of process of law by resorting to such camel ride in these type of cases. Since the time period granted by the learned Single Judge in the present case itself was upto 7.12.2020 under the impugned orders in the present case, we are not inclined to grant any further indulgence in such matter and therefore, we dismiss the present Writ Appeals with a parting note that the litigants and learned Advocates involved in such process should place the facts before the Courts correctly and fully and should not allow such abuse of process of law in the aforesaid manner.

The Writ Appeals are accordingly, dismissed. No order as to costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai 600 015.
2. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Anna Nagar Division,
Thirumangalam, Chennai 600 101.

+5cc to Mr.N.A.Kareem, Advocate, S.R.No. 41370

+5cc to Mr.R.Bharath Kumar, Advocate, S.R.No. 41399

W.A.Nos.1124 to 1128 of 2020

PP(CO)
GN(01/02/2021)