



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P. NO. 2267 OF 2020

AND

W.M.P. NO. 2645 OF 2020

B. Vijayal

.. Petitioner

Versus

1. The Commissioner and Secretary
to the Govt. of Tamil Nadu,
Housing & Development Department,
St. George Fort, Chennai.

2. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Salem Housing Unit,
Salem - 8.

3. The Inspector of Police,
Hastampatti Police Station,
Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 1st respondent to dispose of the appeal of the petitioner dated 03.10.2001 u/s 84 and 85 of the Tamilnadu Housing Board Act expeditiously.

For Petitioner : Mr. C.K.M. Appaji

For R 1 & R2 : Mr. R. Bharathkumar

For R3 : Mr. G. Krishnaraja
Government Advocate

ORDER

The petitioner is running a rice and flour mill in the name and style of M/s Meenakshi Rice and Flour Mills in the property allotted to her by the 1st respondent as per the order dated 03.05.1988 in L.No.2556/N2/87. As per the Allotment order, the



lease period was fixed for 11 months on a monthly rent of Rs.230/- p.m. While so, the second respondent issued a Notice in Letter No.Lr.G2/195-93/84 dated 20.07.1998 calling upon the petitioner to pay 15% enhanced rent on the agreed rent of Rs.230/- per month from the date of commencement of tenancy dated 07.06.1988, totalling Rs.34,450/-. The petitioner sent a reply on 26.05.2021 and disputed the claim. Thereafter, another notice dated 30.10.2020 was issued by the second respondent calling upon the petitioner to pay Rs.70,358/- representing the enhanced rental arrears and on failure to pay the amount, demanded the petitioner to vacate the premises in question. Aggrieved by the same, the Petitioner preferred an appeal on 03.10.2001 before the 1st Respondent. Notwithstanding the same, the petitioner has also filed a suit in O.S. No. 907 of 2001 on the file of Principal District Munsif, Salem to declare that the notice dated 30.10.2001 issued by the second respondent is null and void and for a consequential permanent injunction restraining the second respondent from evicting her from the premises in question. The suit was decreed on 01.03.2004, against which the second respondent filed A.S. No. 38 of 2004 before the learned Additional Subordinate Judge, Salem. The Appellate Court allowed the appeal on 29.10.2004 with liberty to the petitioner to work out her remedy under Sections 84 and 85 of the Tamil Nadu Housing Board Act. According to the petitioner, such an appeal was already filed by her before the first respondent and the same is pending. Further, the petitioner has filed Second Appeal No. 891 of 2005 and the same was dismissed by this Court on 14.03.2019. In the above facts and circumstances, the petitioner has filed this Writ Petition to issue a Writ of Mandamus for expeditious disposal of the appeal preferred on 03.10.2001 before the first respondent.

2. On notice, the second respondent filed a counter affidavit specifically disputing that the petitioner has not preferred any appeal on 03.10.2001 and no such appeal is pending on the file of the first respondent. The petitioner has successfully dragged on the matter and refused to budge from the premises in question for more than two decades. The civil proceedings initiated by the petitioner has also come to an end by virtue of dismissal of the Second Appeal No. 891 of 2005 filed by the petitioner on 14.03.2019. As on 13.11.2019, the petitioner has to pay a total sum of Rs.12,13,852/-. For the non-payment of such huge rental arrears, the second respondent, with the police protection given by the third respondent, had locked the premises on 08.01.2020 and taken possession of the premises in question. Now, the property in question is in the custody and possession of the second respondent. The petitioner has approached this Court with this writ petition with unclean hands. There is no merits in the writ petition and the writ petition is liable only to be dismissed with liberty to the



respondents to recover the rental arrears from the petitioner.

3. Heard the counsel for both sides and perused the materials placed. Admittedly, the petitioner has filed a Civil Suit and it culminated in the passing of a Judgment dated 14.03.2019 in Second Appeal No. 891 of 2005. By virtue of the Judgment dated 14.03.2019, the petitioner's attempt to set aside the demand notice, demanding enhanced arrears of rent, has come to an end. As on 13.11.2019, the petitioner has to pay a total sum of Rs.12,13,852/-. It is stated that the petitioner has not preferred any appeal at all on 03.10.2001 and no such appeal is pending on the file of the first respondent. Further, it is stated that the petitioner was already evicted from the premises in question on 08.01.2020. Having regard to the above facts and circumstances, this Court is of the view that the relief of Mandamus sought for by the petitioner, to dispose of the appeal filed by her on 03.10.2001 need not be issued. The respondents are at liberty to recover the rental arrears payable by the petitioner for her occupation in the premises in question till 08.01.2020, in a manner known to law.

4. With the above direction and observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

av/rsh

To

1. The Commissioner and Secretary
to the Govt. of Tamil Nadu,
Housing & Development Department,
St. George Fort, Chennai.
2. The Executive Engineer and
Administrative Officer,
Tamil Nadu Housing Board,
Salem Housing Unit,
Salem - 8.



3. The Inspector of Police,
Hastampatti Police Station,
Salem.

+1cc to M/S.R.Bharathkumar, Advocate, SR.No.31281

+1cc to M/S.CKM.Appaji, Advocate, SR.No.31468

WP No. 2267 of 2020

PL(CO)
PM(07/09/2021)