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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN  
AND  
THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.3297 of 2021

Vajramani

...Petitioner

Vs.

1.The Managing Director,  
Tamil Nadu Housing Board,  
No.493, Anna Salai,  
Nandanam,  
Chennai - 600 035.

2.The Executive Engineer-cum-  
Administrative Officer,  
Tamil Nadu Housing Board,  
Hosur Housing Unit,  
Bagalur Salai,  
Hosur - 635 109,  
Krishnagiri District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned communication dated 22.10.2020 in Letter No. P2 / 5389 / 2005 on the file of the 2nd Respondent herein, quash the same and consequently direct the Respondents herein to consider the petitioner's representation dated 21.11.2020 in accordance with law and within a stipulated period.

For Petitioner : Mr.S.Sriram  
For Respondents : Mr.Bharath Kumar  
Standing Counsel

O R D E R

(Order of the Court was made by M. SATHYANARAYANAN, J.)  
(Through Video Conferencing)

Heard the submissions of Mr.S.Sriram, learned counsel representing Mr.K.Govi Ganesan, learned counsel for the petitioner, and Mr.Bharath Kumar, learned Standing Counsel appearing for the respondents 1 and 2 - Tamil Nadu Housing Board.



2.The petitioner would submit that her husband, namely, E.Muniappan had purchased a plot, admeasuring an extent of 600 sq.ft., comprised in S.F.No.29, Hosur Village and Taluk, vide registered sale deed bearing Document No.382 of 2002, dated 04.02.2002, registered on the file the Sub-Registrar's Office at Hosur, for a valuable consideration, and adjacent to the said plot, there exists a unshaped triangular plot admeasuring an extent of 105 sq.ft., and according to the petitioner, it cannot be utilised for any purpose. It is further stated by the petitioner that the plot, admeasuring an extent of 850 sq.ft., was owned by her in S.No.844, and it was acquired by the Tamil Nadu Housing Board, for which, compensation is yet to be paid. In the light of the above fact that the irregular plot cannot be put into use, the husband of the petitioner has encroached upon the same and put up a superstructure. The husband of the petitioner, while he was alive, submitted a representation, dated 08.07.2010, admitting the encroachment, and however, pleaded for mercy by making an offer to purchase the said plot of land at the price fixed by the Tamil Nadu Housing Board.

3.Learned counsel appearing for the petitioner would submit that, without considering the said fair offer, the impugned notice, dated 22.10.2020, came to be issued, and immediately, the petitioner has also submitted a detailed representation, dated 21.11.2020. Despite it is pending consideration, the 2<sup>nd</sup> respondent are contemplating further action to evict the petitioner from the land in question, and prays for appropriate orders.

4.Per contra, Mr.Bharath Kumar, learned Standing Counsel, appearing on behalf of the respondents 1 and 2, would submit that, even as per the representation of the husband of the petitioner, dated 08.07.2020, the fact of encroachment of 105 sq.ft. of land of the Tamil Nadu Housing Board has been clearly admitted and also reflected in the further representations of the petitioner, dated 22.02.2011 as well as 21.11.2020 respectively, and in the light of the said admission, the petitioner cannot find fault with the impugned notice, and further points out that the petitioner has also put up unauthorised construction without obtaining any planning permission, and as such, she is neither having any right nor equitable right, and prays for dismissal of the writ petition with exemplary costs.

5.This Court heard the rival submissions and also perused the materials placed before it.

6.It is relevant to extract Section 84 of the Tamil Nadu Housing Board Act, 1961 :



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"84.Power to evict certain persons from Board premises :

(1) If the competent authority is satisfied -

(a) that the person authorized to occupy any Boards premises has -

(i) not paid rent lawfully due from him in respect of such premises for a period of more than two months; or

(ii) sub - let without the permission of the Board, the whole or any Part of such premises; or

(iii) otherwise acted in contravention of any of the terms express or implied, under which he is authorised to occupy such premises; or

(b) that any person is in unauthorized occupation of any Board premises, the competent authority may, notwithstanding anything contained in any law for the time being in force, by notice served

(1) by registered post or (ii) by affixing a copy of it on the outer door or some other conspicuous part of such premises or (iii) in such other manner as may be prescribed, order that the person authorized to occupy as well as any other person who may be in occupation of the whole or any part of the premises shall vacate them within one month of the date of service of the notice.

(2) Before an order under sub - section (1) is made against any person. the competent authority shall inform the person, by notice in writing and served in the manner provided for service of notice under sub - section(1). of the grounds for which the proposed order is to be made and give him a reasonable opportunity for tendering an explanation and producing evidence, if any, and to show cause why such order should not be made within a period to be specified in such notice. ... "

7.Sub-Section (2) of Section 84 of the said Act provides that a reasonable opportunity should be given to the concerned persons for tendering an application and producing evidence, and it appears that the petitioner in this regard has submitted a representation, dated 21.11.2020.

8.This Court, taking into consideration the above facts and circumstances, without going into the merits of the claim projected by the petitioner either in the representation or in the present writ petition, directs the 2<sup>nd</sup> respondent to take note of Section 84 of the Tamil Nadu Housing Board Act, 1961, and after providing an opportunity of personal hearing to the petitioner, shall consider and dispose of the representation,



dated 21.11.2020, on merits and in accordance with law, and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order/uploading of this order in the website, and communicate the decision taken to the petitioner, and till such time, shall defer further proceedings in terms of the impugned notice. It is also made clear that the petitioner, till the disposal of the representation by the 2<sup>nd</sup> respondent, shall not create any third party rights in respect of the encroached portion of the land and superstructure put up thereon.

This writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mkn

To

- 1.The Managing Director,  
Tamil Nadu Housing Board,  
No.493, Anna Salai,  
Nandanam,  
Chennai - 600 035.
- 2.The Executive Engineer-cum-  
Administrative Officer,  
Tamil Nadu Housing Board,  
Hosur Housing Unit,  
Bagalur Salai,  
Hosur - 635 109,  
Krishnagiri District.

+1cc to Mr.K.Govi Ganesan, Advocate, S.R.No.9090

W.P.No.3297 of 2021

AK II (CO)  
KKV/18/03/2021