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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.13470 OF 2016 AND 24231 OF 2016

AND

W.M.P.NOS.11826, 11827 OF 2016

AND

20699 AND 20700 OF 2016

K.Ramakrishnan

... Petitioner in
W.P.No.13470 of 2016

1. Thulasisingam
2. M.Durai
3. H.Jayanthi Harinathan
4. Rani Chandrabose
5. Thulasi Natesan
6. Yesu Raj
7. M.Saravanan
8. Isaki Muthu
9. K.Mayan
10. Kulandhi Theresa
11. Emiliya
12. Mary John
13. Indhira Gopal
14. C.Vijayakumar
15. Sebathiammal

... Petitioners in
W.P.No.24231 of 2016

.Vs.

1. The Tamil Nadu Slum Clearance Board,
Rep. By its Chairman,
No.5 Kamarajar Salai,
Chepauk, Chennai - 600 005.
2. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chepauk, Chennai - 600 005.
3. The Government of Tamil Nadu,
Rep. By its Principal Secretary,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.

... Respondents in
both petitions



PRAYER IN W.P.NO.13470 OF 2016:-

Writ petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records in the proceedings No.E2/14614/1999 dated 31.12.2015 on the file of the 2nd respondent herein and quash the same and direct the 2nd respondent Board to collect only the original monthly rent of Rs.320/- per month for the industrial shed under the occupation of the petitioner till the basic amenities are provided as per orders of the Lok Adalat dated 20.06.2003 passed in W.P.No.13134 of 1997.

PRAYER IN W.P.NO.24231 OF 2016:-

Writ petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records in the proceedings No.E2/14614/1999 dated 31.12.2015 on the file of the 2nd respondent herein and quash the same and direct the 2nd respondent Board to collect only the original monthly rent of Rs.320/- per month for the industrial shed under the occupation of the petitioner till the basic amenities are provided as per orders of the Lok Adalat dated 20.06.2003 passed in W.P.No.13134 of 1997.

For Petitioners : Mr.M.Sadasaram

For Respondents : Mr.S.Prabhu
For R1 and R2

Mrs.N.Senthil Selvi
Government Advocate
For R3

COMMON ORDER

The writ petitions have been filed questioning the order impugned dated 31.12.2015 demanding payment of rent as well as enhanced rent as per the terms of allotment.

2. The petitioners were allotted with industrial Shed and the monthly rent initially fixed was Rs.320/- per month. The industrial sheds could not be maintained by the CMDA and they were entrusted with the Tamil Nadu Slum Clearance Board for maintenance. The rent was increased by Rs.2 per sq. ft. As per the allotment order once in three years 10% of increased rent is to be paid by the allottees. During the relevant point of time in the year 2015, the petitioners had not paid the rent and



३.५ प्रत्येक अर्थी

6. This Court is of the considered opinion that the petitioners are allottees and in occupation of the industrial sheds by paying monthly rents. It is left open to the petitioners to continue in the premises or vacate the same, if they are not satisfied with the minimum facilities provided by the respondents, in view of the fact that the respondents say that toilet and water facilities are already provided. If the facilities are not provided up to the expectation of the



petitioners, then, the petitioners have to take a decision either to vacate the premises or otherwise, contrarily the allottees cannot commit default in respect of payment of rents. Even presuming such facilities are not provided, then also the allottees can make a request for providing such facilities by not committing default of payment of rents. Therefore, for the purpose of raising certain allegations, the rent cannot be withheld by the allottees and such a practice of the allottees cannot be appreciated by this Court.

7. A person, who has not performed his obligation, cannot claim his right at all. A right can be claimed only if a person performs his duties. Right and duties are corresponding to each other and therefore, only in the event of performing the duties by the petitioners, they will be getting the right to claim other facilities or otherwise. In the present cases, admittedly the petitioners are defaulters and in case of default, the respondents are empowered to vacate the petitioners without issuing any further concession or leniency.

8. This being the factum, the impugned demand notice asking the petitioners to pay arrears of rent as well as enhanced rent is in consonance with the allotment conditions as well as the terms agreed between the parties. Consequently the writ petitions are devoid of merits and stand dismissed. The petitioners are directed to pay enhanced arrears of rent and other charges as applicable within a period of four weeks from the date of receipt of a copy of this order, failing which, the respondents are permitted to evict the writ petitioners without further notice to the petitioners. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

RR

To

1. The Chairman,
Tamil Nadu Slum Clearance Board,
No.5 Kamarajar Salai,
Chepauk, Chennai - 600 005.



2. The Managing Director,
Tamil Nadu Slum Clearance Board,
No.5 Kamarajar Salai,
Chepauk, Chennai - 600 005.

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3. The Principal Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.

+2ccs to Mr.M.Sadasaram, Advocate, S.R.No.67181
+1cc to the Government Pleader, S.R.No.67909

W.P.NO.13470 OF 2016 AND 24231 OF 2016
AND W.M.P.NOS.11826, 11827 OF 2016
AND 20699 AND 20700 OF 2016

RSV(CO)
PBS/30/12/2021