



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No. 15052 of 2016

M.Rajakani

... Petitioner

-VS-

1. The Government of Tamil Nadu,
Represented by its Secretary,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.

2. The Executive Engineer-cum-Administrative Officer,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam,
Chennai - 600 035.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the second respondent herein to consider the representation dated 29.04.2015 and allow the petitioner to be in occupation of the demised shop till the second respondent get approval for the construction of new premises and to re-allot a plan shop in the newly constructed building therein to the petitioner.

For Petitioner : Mr.J.Kalidas

For Respondents : Mr.K.M.D.Muhilan
Government Advocate for R1
Mr.R.Bharathkumar for R2



ORDER

The relief sought for in the present Writ Petition is to direct the second respondent to consider the representation dated 29.04.2015 and allow the petitioner to be in occupation of the demised shop till the second respondent gets approval for the construction of new premises and to re-allot a plan shop in the newly constructed building therein to the petitioner.

2. Admittedly, the petitioner's husband was the original allottee of the shop 53 years back i.e., in 1963. On verification, the authorities found that the original allottee already died in the year 2010. Thereafter, the family members of the petitioner are in occupation of the shop. After the death of the original allottee, the Tamil Nadu Housing Board issued a eviction notice to the petitioner. The eviction notice was issued on the ground that the legal heirs of the original allottee cannot continue the rented out building automatically.

3. The learned counsel for the petitioner states that the notice was issued on the ground that the Tamil Nadu Housing Board has proposed to construct a new building as the existing building was in dilapidated condition.

4. This Court is of the considered opinion that the original allottee admittedly died in the year 2010 and the eviction notice was issued in the year 2013. The authorities have also evicted the petitioner from the premises. Thereafter, the petitioner has illegally taken possession of the property and made an attempt to continue to be in possession of the subject shop. On that ground, the Writ Petition is filed to consider the representation.

5. This Court is of the considered opinion that even to issue a direction to consider the representation, the petitioner has to establish her right. In the absence of establishing such right, no such relief can be granted.

6. It is brought to the notice of this Court that the petitioner and their family members are in possession of the Tamil Nadu Housing Board Shop for 54 years and the building is also not in good shape. Even as per the rules, the petitioner cannot be allowed to continue in possession as the original allottee died. If at all the petitioner is eligible, she can submit an application for allotment if a scheme or policy is published or notified by the Tamil Nadu Housing Board.



7. The petitioner had illegally entered into the subject shop after eviction. However, the petitioner was once again evicted by the Competent Authorities on 04.10.2021. In view of the fact that the petitioner has already been evicted from the subject shop which belongs to the Tamil Nadu Housing Board, the petitioner is not entitled for any relief. However, it is left open to the petitioner to submit an application if a scheme is notified by the Tamil Nadu Housing Board or allotment of commercial shop or otherwise.

8. With these observations, this Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vji / Sp

To

1. The Secretary,
Government of Tamil Nadu,
Housing and Urban Development Department,
Fort St. George,
Chennai - 600 009.

2. The Executive Engineer Cum
Administrative Officer,
Tamil Nadu Housing Board,
493, Anna Salai,
Nandanam, Chennai - 600 035.

+1cc to M/s.R.Bharath Kumar, Advocate, S.R.No.52290
+1cc to the Government Pleader, S.R.No.53178

W.P. No. 15052 of 2016

RSI(CO)
SB(26/10/2021)