

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7930 of 2011

D.Rajammal

...Petitioner

Vs

1.The Government of Tamil Nadu,
Rep.by the Secretary to Government,
Housing and Urban Development,
Fort St.George, Chennai – 9.

2.The Tamil Nadu Housing Board,
Rep.by the Chairman,
Mount Road, Madras – 35.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in Letter No.1894/VV(4)/2011-1 dated 25.02.2011 and quash the same as illegal, incompetent and without jurisdiction and further, direct the respondents to return the amounts deposited with them to the tune of Rs.1,42,305/- together with interest at 18% per annum from the date of deposit till repayment.

For Petitioner

: Mr.V.Raghavachari

For Respondents

: Mr.K.M.D.Muhilan
Government Advocate
[For R1]

Mr.R.Bharathkumar
[For R2]

ORDER

The order dated 25.02.2011, cancelling the allotment made in favour of the husband of the writ petitioner and further, asking the petitioner to pay the losses.

2. Admittedly, the petitioner has not completed the installments in respect of the Tamil Nadu Housing Board house allotted in the name of her husband. Thus, the Tamil Nadu Housing Board cancelled the allotment and re-allotted the said house in favour of one Mr.G.Durai.

3. The learned counsel for the petitioner states that in view of the fact that the allotment was cancelled, the respondents ought to have returned the deposited amount. However, the refund also has not been made. Thus, the petitioner is constrained to move the present writ petition.

4. The learned counsel for the second respondent relying on the counter, states that as per the Regular Allotment Order No.HR.4/1226/94 dated 09.02.94 the tentative cost of MIG house No.424 at Virupakshipuram Neighbourhood Scheme is Rs.1,64,700/- Initial Deposit Rs.76,300/- monthly installment is Rs.1222/- per month and the repayment period is 14 years. After making payment of Initial Deposit, the petitioner has to pay monthly installment Rs.1222/- on or before 15th of every month spreading over to 14 years. But, the Petitioner have not paid the monthly installment amount regularly thereby accumulated the monthly installment arrear amount of Rs.56,766/- upto 09/2002. Despite issue of several statutory notices and Show Cause notices, the petitioner had not come-forward to clear the outstanding amount. Therefore, the house allotment has been cancelled on 29.10.2002 and the possession of the house was taken over by Tamil Nadu Housing Board on 06.08.2003. The petitioner has comfortably enjoyed the occupancy of house during the period of 07/1994 to 08/2003. As per the existing norms of the Tamil Nadu Housing Bord, the refund of money paid by the petitioner could not be complied with.

5. In view of the fact that the petitioner was in possession and

enjoyment of the subject property from July 1994 to August 2003, the respondents have not return back the deposited amount. The petitioner admittedly, has not paid any rent for the period, in which, she is in occupation of the Tamil Nadu Housing Board House. In the event of seeking return of deposit, the petitioner is liable to pay the rent for the period, in which, she continued in the occupation of the House Board property.

6. Under these circumstances, if the petitioner is willing to settle the issues in a right manner, she is at liberty to approach the Tamil Nadu Housing Board, who in turn, shall calculate the rent for the period, in which, the petitioner was in occupation and the loss and in the event of paying the said amount, the deposited amount may be returned back. However, the calculation sheet in this regard is to be prepared by the competent authorities for initiation of all further actions. The writ petitioner is at liberty to approach the second respondent to resolve the issues.

7. With this liberty, the writ petition stands disposed of. No costs.

28.09.2021

Internet: Yes
Index : Yes
Speaking order: Yes
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To

1. The Secretary to Government,
Housing and Urban Development,
Fort St. George, Chennai – 9.
2. The Chairman,
Tamil Nadu Housing Board,
Mount Road, Madras – 35.



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S.M.SUBRAMANIAM, J.

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