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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33804 of 2015

and

M.P.No.1 of 2015

Dr.Thirumangai

... Petitioner

Vs

1. The Chairman,
TNHB, Nanthanam (Tamil Nadu Housing Board)
Chennai - 600 035.

2. The Executive Engineer,
Administrative Officer,
Erode Housing Unit, Erode - 1.

3. The Commissioner & Secretary
Department of Housing,
Secretariat, Chennai - 600 09.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of writ of Mandamus directing the 1st respondent to pay the petitioner appropriate compensation with respect of death of petitioner's son on 11.05.1986.

For Petitioner : Mr.Vasudevan

For Respondents : Mr.R.Bharathkumar [for R1 & R2]

: Mr.C.Kathiravan
Government Advocate [for R3]

O R D E R

The writ petition has been instituted for a direction to the first respondent to pay the petitioner appropriate compensation in respect to the death of petitioner's son on 11.05.1986.



2. The petitioner is the mother of the deceased Anantha Krishnan who was aged about 11 years at the time of his death. The petitioner's husband was employed as Assistant Revenue Officer in Tamil Nadu Housing Board in the year 1984. He was allotted a house in S.G. Colony, Periyar Nagar, Erode and on 09.05.1986, when the children were playing in the terrace of the quarters in an unbuilt area, which was an unconstructed portion between the two blocks. The son of the petitioner Ananatha Krishnan slipped and fell down and sustained grievous injuries. He died on 11.05.1986.

3. The petitioner filed a civil suit in O.S.No.7725 of 1998 and the suit was decreed on 10.11.2003 by which the respondent was directed to pay a sum of Rs.1,50,000/- along with the interest at the rate of 9% from the date of filing of the suit. Execution proceedings in E.P.No.2885 of 2006 was filed and the first respondent filed an appeal in A.S.No.170 of 2007. The conditional interim order passed by the High Court also had not been complied with. The petitioner was not aware of the result in an appeal and under these circumstances, she has chosen to file the present writ petition.

4. The learned counsel for the first respondent Tamil Nadu Housing Board made a submission that the husband of the petitioner, who is a father, was an employee of the Tamil Nadu Housing Board was allotted rental Flat No.B-4, S.G. Colony, Periyar Nagar, Erode during the year 1984. The rental allottee has been given undertaking that he will abide by the rules and regulations of the Government of Tamil Nadu and the Tamil Nadu Housing Board. He had executed an agreement in favour of Tamil Nadu Housing Board. Clauses 7, 15 and 17 of the agreement reads as follows:

"7.I shall be held responsible for any damage caused by me or any of the members of my family to any part of the tenement allotted to me and I agree to allow the cost of the repairs recovered from me.

15.The occupation of the quarters allotted to me shall be with the full and definite knowledge of the nature and condition of the quarters and claiming through me shall have any claim against the said Board DUE TO ANY INJURY OR LOSS THAT MAY BE CAUSED BY FIRE ACCIDENT THEFT OR FROM ANY OTHER CASES WHATSOEVER.

17.If I or other person or persons of my family authorised to occupy the premises cease to occupy the premises same for a continuous period of 14 days,



without the previous permission in writing of the said Board, the tenancy shall cease forthwith."

5. Relying on the above terms and conditions in the agreement, the learned counsel for the first respondent made a submission that the Housing Board is not liable to pay any compensation.

6. No doubt, the suit was decreed in favour of the petitioner and Execution proceedings in E.P.No.2885 of 2006 was also filed. The Housing Board filed an appeal suit in A.S.No.170 of 2007 and the said appeal suit was also dismissed. This being the factum. Writ Court under Article 226 of the Constitution cannot re-adjudicate the issue at this length of time in the present writ petition. As rightly pointed out, the issues were adjudicated before the Civil Court in the suit. Appeal suit was also filed, there also adjudication process was completed. Thus, the High Court in a writ proceedings cannot enter into the adjudication of such disputed issues between the parties. However, considering the claim of the petitioner for compensation, it is left open to the petitioner to submit a representation to the authorities competent for redressal of her grievances.

7. With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Chairman,
TNHB, Nanthanam (Tamil Nadu Housing Board)
Chennai - 600 035.
2. The Executive Engineer,
Administrative Officer,
Erode Housing Unit, Erode - 1.



3. The Commissioner & Secretary
Department of Housing,
Secretariat, Chennai - 600 09.

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+1cc to M/s.R.Bharath Kumar, Advocate, S.R.No.54857

+1cc to the Government Pleader, S.R.No.55408, 55424

W.P.No.33804 of 2015

RSI (CO)
SU(15/11/2021)