



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 16008 of 2021

and

WMP Nos. 16920, 16923 & 16924 of 2021

B. Bagyam

.. Petitioner

Versus

1. The Principal Secretary
Housing and Urban Development Department
Secretariat, Chennai - 600 009
2. The District Collector
Chennai District, Chennai.
3. The Executive Engineer and Administrative Officer
Nandanam Division
Tamil Nadu Housing Board
No.485, MDP Building
Nandanam, Chennai - 600 035
4. N.Rajan
The Executive Engineer and Administrative Officer
Nandanam Division
Tamil Nadu Housing Board
No.485, MDP Building
Nandanam, Chennai - 600 035
5. The Assistant Engineer,
Tamil Nadu Housing Board,
Lloyds Colony Maintenance Office,
Lloyds Colony, Royapettah, Chennai - 600 014.
6. The Assistant Revenue Officer,
Nandanam Division,
Tamil Nadu Housing Board,
No.485, MDP Building,
Nandanam, Chennai - 600 035.

...Respondents



Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records relating to the impugned communication of the 3rd respondent in letter No.N.T..R/7/1350/2018, dated 28.12.2020 and consequent impugned Notice which was affixed in the petitioner's house issued by the 6th respondent, dated 28.07.2021 and quash the same and consequently direct the respondents to permit the petitioner to live in the house bearing Door No.P-3, Lloyds Colony, Royapettah, Chennai 600 014 which comes under TNHB, Nandanam Division.

For Petitioner : Mr. M. Joseph Thatheus Jerome

For Respondents : Mr. R. Bharath kumar for R3 to R6

Mr. G. Krishnaraja
Government Counsel for R1 & R2

O R D E R

The Writ Petition has been filed to quash the communication bearing No.N.T.R/7/1350/2018, dated 28.12.2020 of the 3rd respondent and the consequent notice issued by the 6th respondent dated 28.07.2021 and also issue a direction to the respondents to permit the petitioner to reside in the house bearing Door No.P-3, Lloyds Colony, Royapettah, Chennai 600 014 which comes under TNHB, Nandanam Division.

2. It is the case of the petitioner that the 3rd respondent had allotted the house situated in No. P-3, Lloyds Colony, (Tamil Nadu Housing Board), Royapettah, Chennai 600 014 for rent in the name of her husband namely M.Babu. The petitioner along with her husband was living in the said premises without any hindrance by paying rent. While so, her husband died on 07.03.2019. After the demise of her husband, the 3rd respondent through communication, dated 29.01.2020 had increased the rent, which was also agreed to pay by the petitioner. In the mean while, the petitioner suffered from various health issues and therefore, she had taken treatment in a hospital at Madurai where her brother is having his house. When she returned to Chennai, she was shocked to notice the impugned communication, dated 28.12.2020 stating that the legal heirs of the deceased would be permitted to occupy the allotted house only for a period of six months and thereafter the same should be handed over to the Housing Board as per the Resolution of the Housing Board. Hence, the petitioner was directed to pay the rental arrears with penalty and also to hand over the possession immediately. Thereafter, she sent an explanation dated 27.01.2021 to the 3rd respondent requesting to permit her to



occupy the said house by assigning the house through a separate allotment order in her favour for rent. While so, on 28.07.2021 at 10.00 a.m, suddenly, the 3rd respondent along with 5th and 6th respondents entered into the petitioner's house and evicted her without following due process of law. Hence, this Writ Petition.

3. Upon notice, the learned counsel appearing for the respondents/ Housing Board submitted that against the communication, which is impugned in this writ petition, the petitioner has an appellate remedy under Section 86 of the Tamil Nadu Housing Board Act. Without exhausting such remedy, she has filed this writ petition and it is not maintainable. Therefore, on the ground of maintainability of the writ petition, the learned counsel prayed for dismissal of the writ petition.

4. At this juncture, the learned counsel for the petitioner submitted that the petitioner may be permitted to file an appeal before the authority concerned.

5. In view of the limited relief now sought by the learned counsel for the petitioner, which has not been seriously opposed on the side of the respondents, the petitioner is permitted to file an appeal before the authority concerned within a period of two weeks from the date of receipt of a copy of this Order. If any such appeal is filed, the appellate authority shall entertain the same without raising any issue with regard to limitation and decide the appeal on merits and in accordance with law, after affording reasonable opportunity of hearing to the petitioner, as expeditiously as possible.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

vum/rsh

To

1. The Principal Secretary,
Housing and Urban Development Department,
Secretariat, Chennai - 600 009.



2. The District Collector,
Chennai District, Chennai.

3. The Executive Engineer and Administrative Officer,
Nandanam Division,
Tamil Nadu Housing Board,
No.485, MDP Building,
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4. The Assistant Engineer,
Tamil Nadu Housing Board,
Lloyds Colony Maintenance Office,
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Chennai - 600 014.

5. The Assistant Revenue Officer,
Nandanam Division,
Tamil Nadu Housing Board,
No.485, MDP Building,
Nandanam, Chennai - 600 035.

+1cc to Mr.M.Joseph Thathens Jerame, Advocate, S.R.No.43880

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.44222

+1cc to the Government Pleader, S.R.No.44264

WP No. 16008 of 2021

PA(CO)
SU(12/10/2021)