



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Writ Petition No.19519 of 2020
and W.M.P.Nos.24134 and 24135 of 2020

N.P.Subramanian

...Petitioner

Vs

1.Executive Engineer/Administrative Officer
Tamil Nadu Housing Board
K.K.Nagar Division
No.C-48, Third floor, 2nd avenue
Anna nagar, Chennai-600 040.

2.Sengol Murugan
Holding the post of Executive Engineer/
Administrative Officer
Tamil Nadu Housing Board
K.K.Nagar Division
No.C-48, Third floor, 2nd Avenue
Anna nagar, Chennai-600 040.

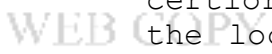
3.The Secretary to Government
Housing and Urban Development Department
Secretariat, Fort St. George
Chennai-600 009.

...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 in impugned lock and seal notice dated 19.10.2020 on the file of the 1st respondent, quash the same and consequently, direct the 1st respondent to produce the documents relating to taking possession, sketch of the property, town survey record and document granting any right to third party to the petitioner so as to enable the petitioner to take appropriate steps before the 3rd respondent.

For Petitioner : Mr.N.S.Nandakumar

For Respondents : Mr.R.Bharathkumar



ORDER

The prayer made in this writ petition is to issue a certiorarified mandamus, to call for the records pertaining to the lock and seal notice dated 19.10.2020 from the file of the first respondent, quash the same and consequently, direct the first respondent to produce the relevant documents, such as, taking possession, sketch of the property, etc. to the petitioner.

2.It is the case of the petitioner that he is in possession of shop nos.5 and 6, South Sivan Koil Street, Vadapalani, Chennai-28 and is now dealing with the business of Faber Kitchen Appliances. While so, the first respondent passed a final order dated 24.01.2019 stating that one Mohammed Asraf and CKP Mariam / third parties, who are said to be the petitioner's predecessors-in-interest, failed to pay arrears of rent to the tune of Rs.25,56,168/- for shop no.5 and Rs.26,26,431/- for shop no.6, and hence, the said persons / occupant(s) were directed to vacate the shops and hand over the vacant possession, failing which appropriate proceedings be initiated as per law. Challenging the same, the petitioner preferred appeals dated 27.02.2019 before the third respondent / Appellate Authority. During the pendency of the appeal proceedings, the second respondent without issuing any notice to the petitioner, locked and sealed the shops in question on 19.10.2020. Feeling aggrieved, the petitioner is before this court with the present writ petition for the aforesaid relief.

3. The learned counsel for the petitioner submitted that the first respondent did not issue notice under section 84(1) of the Tamil Nadu Housing Board Act, 1961 to the petitioner before passing the impugned order under section 84(5) of the Act, in spite of the fact that the petitioner is in occupation and carrying on business for more than two decades. The learned counsel further submitted that during the pendency of the appeal proceedings before the third respondent, the second respondent on behalf of the first respondent, has locked and sealed the shops on 19.10.2020, which is arbitrary, illegal and in violation of the principles of natural justice and hence, the same is liable to be quashed. However, restricting the relief sought in this writ petition, the learned counsel submitted that similarly placed persons were permitted to take away their belongings kept in the locked shops and hence, the petitioner may also be permitted to take his belongings kept in the shops in question, without prejudice his right to contest the appeal proceedings pending before the appellate authority by raising all the contentions, for which, the learned counsel appearing for the respondents has no serious objection.



4. 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, this Court directs the respondent authorities to permit the petitioner to take away his belongings kept in the locked shops in question.

5. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Executive Engineer/Administrative Officer
Tamil Nadu Housing Board
K.K.Nagar Division
No.C-48, Third floor, 2nd avenue
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2. The Holding the post of Executive Engineer/
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3. The Secretary to Government
Housing and Urban Development Department
Secretariat, Fort St. George
Chennai-600 009.

+1 cc to Mr.R.Bharath Kumar, Advocate Sr.No.36372

W.P.No.19519 of 2020

SR[co]
NSK 30/07/2021