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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 25.02.2021

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THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.3903 of 2021

and

W.M.P. (MD) No.3128 of 2021

T.Balamurugan

... Petitioner

-vs-

The Executive Engineer cum Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit,
Ellis Nagar,
Madurai - 625 016.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari by calling for the records pertaining to the impugned Eviction Notice vide Letter No.B2/1540/12 dated 11.02.2021 issued by the respondent herein and quash the same as illegal and unsustainable.

For Petitioner : Mr.K.Kannan

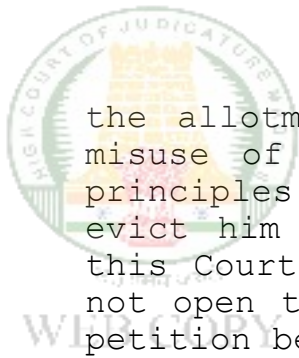
For Respondents : Mr.M.Mahaboob Athiff
Standing Counsel

ORDER

The petitioner claims himself to be a journalist and in that capacity, he appears to have made an application to the Collector, Madurai, for allotment of a house against a reserved quota on the basis of the fact that he was a journalist. According to him, the allotment was given to him in 2012 and he had carried out certain renovation of the apartment by spending an amount of Rs.1,60,000/-. The petitioner claims that he has been paying the monthly rent fixed by the Board regularly without any arrears except a sum of Rs.500/- to be paid by him.

2.While matter stood thus, the Board has issued a proceedings dated 11.02.2021 directing him to vacate the occupation on the ground that since the day when he was allotted the house, he has not been paying either the rent or electricity charges for the same.

3.When the matter was taken up for hearing, on behalf of the respondent Board Mr.M.Mahaboob Athiff, learned Standing Counsel appeared and the Counsel represented that earlier the same petitioner has challenged a similar order passed by the Board and a learned Judge of this Court in W.P.(MD)No.6875 of 2020 has held that



the allotment of house under special quota itself is illegal and misuse of power, however, directed the Board to comply with the principles of natural justice by giving him a notice and seek to evict him from the possession. In pursuance of the direction of this Court, dated 19.06.2020, a notice was issued and hence, it is not open to the petitioner to challenge the notice in another writ petition before this Court.

4.This Court has gone through the order passed by this Court. The learned Judge in paragraphs 7 to 11 has clearly held against the petitioner, however, only directed the Board to give him notice before eviction is sought to be enforced. Paragraphs 7 to 11 are extracted hereunder:

"7.The Government in its wisdom and to provide accommodation at reasonable rates had constructed houses. In terms of the Planning laws which are in vogue at present and the technological advancement, with the same extent of land additional houses could be constructed. Therefore, the Policy decision taken in G.O. Ms. No. 21 is for the welfare of the Government servants to whom Rental accommodation will be allotted.

8. As pointed out by this Court earlier, 20% reservation as "Public quota" in the TNGRHS itself leads to misuse of power, perpetuates illegality, extends benefit to a chosen few and resultantly violates Article 14, of the Constitution of India. The Appellants have laid a claim that it does not matter whether it is a building under the control of the Housing Board or the Public Works Department, accommodation should be given because these are all done under the Business Rules of the Government for Administrative purposes.

9. A perusal of the condition show that it is stringent and it is in fact a declaration filed by the allottee that he shall abide by whatever conditions imposed on him by the Government. A persons, who was allotted a quarters under TNGRHS has absolutely no right to reside in the same upon transfer or retirement. This would clearly indicate that there cannot be any right of claiming permanent allotment to be held by an allottee in the Tamil Nadu Housing Board.

10. In this case, no eviction notice was issued to the petitioner as per the procedure established under law for evicting him from the housing board quarters. That apart, without giving any opportunity to the petitioner for clarifying or to put forth his defence, if any, the respondent has issued the impugned order.



11. In view of the above facts, this Court is inclined to set aside the impugned order as no reasons stated for issuing such notice and further directs the respondent to issue proper notice to the petitioner as per law the procedure established under the Tamil Nadu Housing Board Rules, within a period of four weeks from the date of receipt of a copy of this order and thereafter pass appropriate orders after giving sufficient opportunity to the petitioner."

5. In the teeth of the above order passed by this Court, the present Writ Petition is not maintainable and the claim of the petitioner is contrary to the records and is not to be accepted. Even otherwise, the contention that he has been paying regularly rent and other charges for the house is disputed and in fact, the notice itself clearly says that he has not been paying any amount towards rent or other charges right from the day when the allotment was given to him.

6. In view of the above, the Writ Petition is not only not maintainable but also to be dismissed on merits and hence it is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(RTI)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

To

The Executive Engineer cum Administrative Officer,
Tamil Nadu Housing Board,
Madurai Housing Unit,
Ellis Nagar,
Madurai - 625 016.

W.P. (MD) No.3903 of 2021

25.02.2021

AC (CO)

TR(17.03.2021) 3P 2C