



W.P. No. 9717 of 2014

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.P. No. 9717 of 2014

and

M.P. No. 1 of 2014

S.Gnanasankaran,
S/o. V.Sivashanmugam

... Petitioner

Versus

The Executive Engineer/
Administrative Officer,
Tamil Nadu Housing Board,
Villupuram Housing Board Division,
Villupuram-605 602.

... Respondent

PRAYER : Writ Petition filed under Art. 226 of Constitution of India, praying to issue a Writ of Certiorari calling for the records of the respondent pertaining to his impugned demand notice dated 13.12.2013 in Letter No.R-7/0607/06 and quash the same and further direct the respondent to collect the arrears if any in accordance with law.



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For Petitioner : Mr.V.Anand
For Respondent : Mr.D.Veerasekaran,
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned order dated 13.12.2013 passed by the respondent demanding to pay a sum of Rs.1,22,550/-.

2. The contention of Writ Petitioner is that he was allotted a quarter in Housing Board while he was working as Bench Clerk Grade I in the District Court, Cuddalore, which was ordered by the respondent on 03.06.2004 subject to certain terms and conditions and on payment of water charges, electricity charges and monthly rent. It is his further contention that he has been regularly paying the rent. When the petitioner was transferred from Vridhachalam to Chidambaram Court, the petitioner handed over the key through post. However, the respondent took a view that key has not been handed over legally and so, they calculated the rent even from January 2013 when the flat has been vacated and not used at



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all. The respondent having known the facts that key is also handed over , ought not to have demanded rent. In the meanwhile, the respondent issued a demand notice dated 13.12.2013 claiming arrears of rent of Rs.1,22,550/-, which has been challenged in this Writ Petition.

3. The counter has been filed by the respondent to the effect that while the petitioner was in service at Vridhachalam, rents have been deducted from his salary. However, the petitioner was transferred from Chidambaram to Cuddalore during the period of November 2012 to September 2013. Therefore, the respondent arrived a economic rent as per Government Order No.454 and according to them, flat was vacated only on 26.09.2013. Hence, the impugned order does not suffer any interference.

4. The learned counsel for petitioner would submit that even after the respondent being informed about the vacating and handing over the flat, and the rents have been collected, the impugned notice was issued.



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5. Whereas, the learned counsel for respondent would submit that flat has not been vacated officially and the key was handed over only by post. Therefore, the rent has been collected till the flat was vacated officially.

6. I have heard the learned counsel on either side and also perused the records carefully.

7. Whereas from the communication dated 13.12.2013 issued by the respondent indicates that key has been already handed over by post and further communication indicates that rent has been deducted from the salary till 31.12.2012. When the petitioner was in service at Vridhachalam, there is no deduction whatsoever made. That itself clearly indicates that the petitioner was transferred and joined in some other court from 01.01.2013, however, subsequently at the request of respondent, a sum of Rs.22,550/- has been deducted from the salary of District Court, Chidambaram. Thereafter, no amount has been deducted from his salary. That itself clearly indicates that the moment as he was



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transferred to some other place, the building has been handed over by the petitioner and from the admission of respondent in their communication would clearly indicate that key has been already sent through post. Such being the position, again demanding rent for the period, when he was not in occupation of the flat and he was transferred to some other place, is not correct.

8. Now, it is stated by the learned counsel for petitioner that the petitioner paid a sum of Rs.49,000/- on 28.04.2014 and a sum of Rs.24,000/- on 17.07.2014, which has not been disputed by the respondent. He is liable to pay a sum of Rs.12,468/- if the rent is calculated from 01.01.2013 till 30.09.2013. Further communication indicates that the petitioner has been transferred to some other place and the salary was deducted upto 31.12.2012. Further, the communication of respondent also indicates that key was handed over through post. Therefore, when the petitioner was not in occupation, the respondent has no right to claim rent till September 2013. Accordingly, the impugned demand notice dated 13.12.2013 is set aside and the petitioner is directed



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to pay the remaining arrears of rent of Rs.12,468/- payable to the respondent within a period of two weeks from the date of receipt of copy of this order.

9. With the above direction, this Writ Petition is allowed. No costs.

Consequently, connected Miscellaneous Petition is closed.

24.11.2022

Index: Yes/No
Internet: Yes/No
rpp

To

The Executive Engineer/
Administrative Officer,
Tamil Nadu Housing Board,
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N.SATHISH KUMAR, J.

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