



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.03.2022

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THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. Nos.619 & 620 of 2017
and
WMP Nos.668 & 669 of 2017

N. Balasubramanian

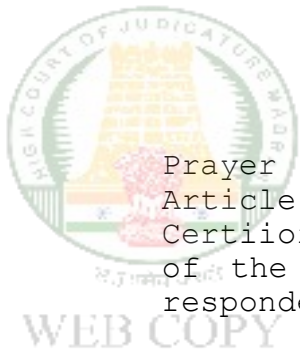
... Petitioner
(in all Wps)

Vs

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Housing & Urban Development Department,
Fort St. George, Chennai 600 009.
2. The Managing Director cum Chairman,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai 600 035.
3. The Deputy Secretary (Revenue),
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai 600 035.
4. The Executive Engineer,
CIT Nagar Renovation Plan,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai 600 035

... Respondents

Prayer in W.P.No.619 of 2017: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records connected with the passing of the impugned order of the 3rd respondent made in Executive Order No.VA.VA.B.2/17825/2016 dated 28.09.2016 and to quash the same and to consequently direct the 3rd respondent to restore possession and re-allot the leasehold rights of the tenement at Door No.59, 3rd street, Nandanam Colony, Chennai -35 to the petitioner.



Prayer in W.P.No.620 of 2017 : Writ petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records connected with the passing of the Board Resolution No.11.04 dated 21.07.1997 of the 2nd respondent and to quash the same.

For petitioner
in both W.Ps.

... Mr .N. Viswanathan

For respondents
in both W.Ps.

... Mrs. S,Meera Arumugam,
AGP, for R1

... Mr. R.Bharathkumar,
for R2 to R4

COMMON ORDER

W.P.No.619 of 2017 has been filed challenging the order passed by the respondents/Housing Board under Section 84 of the Tamil Nadu Housing Board Act.

2. W.P.No.620 of 2017 has been filed challenging the Housing Board resolution dated 21.07.1997 that after the death of the original lessee, the legal heirs are not entitled to seek for transfer of lease in favour of the heirs of the original lessee.

3. The brief fact leading to file the writ petitions is that, originally, a Housing Board tenement at CIT Nagar, Nandanam, has been allotted to the petitioner's father K.Narayanaswamy in the year 1963. Subsequently, the original allottee Narayanaswamy died in the year 1974. Thereafter, the petitioner's mother, N.Chellammal, made an application to the Housing Board for allotment in her favour and the Housing Board accepted her request and made the allotment in her name in the year 1977. Subsequently, in the year 2015, petitioner's mother, Chellammal, died and thereafter, the petitioner is in continuous possession of the tenement. All of a sudden, in the year 2016, the respondent Housing Board, issued a show cause notice to the petitioner to vacate the premises on the ground that after the death of the original lessee, the legal heirs are not entitled for lease and hence, they are liable to be evicted. The petitioner opposed the show cause notice through a lawyer and ultimately, the order of eviction came to be passed on 23.08.2016 stating that the House has not been in use for more than 3 months and that apart, the petitioner is also using the same for commercial purposes. Challenging the said show cause notice, the petitioner filed a writ petition in W.P.No.33144 of



2016 and this Court by an order dated 22.09.2016 directed the Housing Board to conduct enquiry and pass suitable orders. Pursuant to the said direction, enquiry was conducted and the petitioner was represented by a lawyer and after considering all those circumstances, the Housing Board passed the impugned order on 28.09.2016 on the ground that since the original lessee died in the year 1974, as per the Board Resolution, dated 21.07.1997, after the death of the original lessee, the lease cannot be granted in favour of the legal heirs, that apart, the residential premises has been used for commercial purposes and hence, the petitioner was directed to vacate the premises within 30 days. Now, challenging the said order of eviction W.P.No.619 of 2017 and challenging the Board Resolution passed by the 2nd respondent dated 21.07.1997, W.P.No.620 of 2017, have been filed.

4. The learned counsel appearing for the petitioner submitted that after the death of the original lessee, namely, his father, and his mother, the petitioner has been in continuous possession of the property and paying lease amount without any default, however, the respondents Housing Board, only with a malafide intention to allot the premises to some influential person, forcibly evicted the petitioner from the premises.

5. Per contra, the learned counsel appearing for the respondents/Housing Board submitted that admittedly, the petitioner's father K. Narayanaswamy, was the original lessee in the year 1963 and allotment was made by the erstwhile City Improvement Trust (CIT). Thereafter, he died in the year 1974, subsequent to the death of the original lessee, the lease was transferred in favour of the petitioner's mother, Chellammal and she was also died on 10.03.2015. As per the Board Resolution dated 21.07.1977, the legal heirs are not entitled for transfer of lease in their favour. That apart, the petitioner was not in possession of the above said premises, and earlier, he was using the same for commercial purposes and hence, after issuing show cause notice, and after hearing the petitioner, order of eviction has been passed. Subsequently, the petitioner was also evicted on 22.10.2016 and now, the said premise has been allotted to third parties. So far as challenging the Board Resolution, the learned counsel appearing for the respondents/Housing Board submitted that already a Division Bench of this Court has upheld the validity of the resolution in W.A.No.1443 of 2008, dated 16.06.2010, in the case of K. Saraswathi /vs/ The State of Tamil Nadu . In such circumstances, this writ petition is not maintainable challenging the Board Resolution.



6. I have considered the rival submissions made on either side and perused the materials available on records carefully.

7. Admittedly, in this case, original lessee died in the year 1974 and subsequently the lease was transferred in favour of petitioner's mother and she also died in the year 2015. As per the Board Resolution, after the death of the lessee, the legal heirs are not entitled to get a transfer of lease. Taking into consideration of those Resolution, the respondents/Housing Board, after giving proper notice to the petitioner herein, passed an order of eviction. Hence, this Court finds no illegality in the impugned order passed by the respondents/Housing Board.

8. So far as challenge in respect of the Board Resolution is concerned, the Housing Board relied upon the Division Bench Judgment of this Court in W.A. No. 1443 of 2008, dated 16.06.2010 and the same has been followed by yet another Division Bench of this Court, in W.A.No.1722 of 2012 dated 04.02.2015 (Ambrish Ashok Pathak /vs/ The Tamil Nadu Housing Board), wherein it has been held that after the death of the original lessee, the legal heirs are not entitled for transfer of lease in their favour. Considering those circumstances, there is no merit in challenging the resolution and the eviction order passed by the respondents/Housing Board pursuant to the Board Resolution and hence, both the writ petitions are liable to be dismissed.

9. Accordingly, both the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

mrp
To

1. The Secretary to Government,
The State of Tamil Nadu,
Housing & Urban Development Department,
Fort St. George, Chennai 600 009.
2. The Managing Director cum Chairman,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai 600 035.



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3. The Deputy Secretary (Revenue),
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4. The Executive Engineer,
CIT Nagar Renovation Plan,
Tamil Nadu Housing Board,
493, Anna Salai, Nandanam,
Chennai 600 035.

+1 cc to Mr.R.Bharathkumar, Advocate Sr.NO.16149

+1 cc to Mr.N. Viswanathan, Advocate Sr.NO.16592

+1 cc to SPL Government Pleader Sr.NO. 16677

W.P. Nos.619 & 620 of 2017

SKM(CO)

A.SK(17/05/2022)