



W.A(MD)No.661 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.12.2022

CORAM

**THE HON'BLE DR JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

W.A.(MD)No.661 of 2012
and
M.P(MD)No.3 of 2012

1.Small Industries Development,
Corporation Limited (SIDCO)
Industrial Estate,
K.Pudur,
Madurai.7
Through its Branch Manager

2.The Chairman & Managing Director,
Tamil nadu Industries Development
Corporation Ltd., (TAN SIDCO)
Thiruvika Industrial Estate,
Electronic Estate (NEAR)
Guindy,
Chennai.

.. Appellants/Respondents

Vs.

P.Ramasamy

.. Respondent/Petitioner



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Appeal filed under Clause 15 of the Letters Patent, praying this Court, to set aside the order dated 22.11.2010 passed in W.P(MD)No.9418 of 2008 on the file of this Court.

For Appellants :Mr.T.Sakthikumaran
Standing Counsel

For Respondent :Mr.AL.Kannan

JUDGMENT

DR G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

One Ramasamy, the respondent herein joined as a Clerk in SIDCO. The appellant allotted Tenements for basic servant working in SIDCO. The respondent was one of the allottee. By efflux of time, the respondent was promoted to the clerical cadre, however, continued to stay in the Tenement for basic servant. The Management of SIDCO took a policy decision to give a preemptive right to purchase the Tenement and fixed a price. The respondent, by that time, had been promoted to the clerical cadre and further promoted as Assistant and retired as Assistant on 31.07.2006.



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2.Since he was occupying the Tenement for basic servant, he has not entitled for exercising the right to purchase. His retirement benefits were not disbursed, since he failed to pay rent for the tenement. Under such circumstances, he has filed a Writ Petition in W.P(MD)No.9418 of 2008, for Certiorarified Mandamus, to call for the records relating to the order, dated 30.07.2007 (superannuation order) and quash the same and to direct the respondents to execute the sale deed for the labour tenement, receiving sale consideration of Rs.9,600/-.

3.The learned Single Judge of this Court, after considering the facts of the case, has rightly declined to entertain the later part of the prayer. However, as far as the retirement benefits are concerned, directed the writ petitioner, viz., Ramasamy to clear the entire rental arrears till date and on such clearance, the retirement benefits should be disbursed. As far as his request for conveyance of the tenement in his possession, the learned Single Judge has left open the question to be decided by the appropriate forum whether the petitioner is entitled to continue in the said house are not and whether he is entitled for purchasing the said house or not. Being aggrieved by the order, the appellant/SIDCO has filed the present writ appeal.



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4.Heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondent and perused the materials available on record.

5.The learned counsel appearing for the appellants would submit that the tenement is meant for basic servants/labourer. It was allotted to the writ petitioner, while he was serving as a Peon in SIDCO, because he was allowed to continue even after being promoting as a Clerk and Assistant, he cannot have the privilege of purchasing the tenement. It is purely meant for labourers, who are livinghaving been deprived of the retirement benefits, in very lowest strata of the Society. Liberty given in the writ petition may lead to unjust enrichment, who is occupying the tenement, even without paying the rent fixed.

6.The learned counsel for the respondent would submit that having been deprived of the retirement benefits, the respondent/writ petitioner was not in a position to clear the rental arrears. Further, if the appellant/SIDCO agree to alienate the property, the same can be transferred to the respondent and the cost of the property can be adjusted from the retirement benefits



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withheld by the SIDCO.

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7.The respondent herein, who has been overstaying the tenement meant for labourers working in SIDCO, is a defaulter in rent, besides, ineligible to purchase the tenement. However, the appellants have permitted him to keep the tenement and had not taken any steps to collect the rent till the date of his retirement. But, contrarily the appellant has conveniently withheld his retirement benefits.

8.Taking note of these facts, the learned Single Judge has rightly observed that the preemptive right to purchase the tenement is not a right enured to the respondent after lost the character of labourer. However, it is open for him to agitate before the appropriate forum seeking conveyance of the tenement. As far as the retirement benefits coupled with the rental arrears, the learned Single Judge has made a specific direction that the writ petitioner has to clear the rental arrears and on clearance of the rental arrears within three months, the appellant/SIDCO should pay the retirement benefits.



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9.The respondent herein has not paid the rental arrears till date, which is pre-requisite to get the retirement benefits as per the learned Single Judge order. Having failed to comply the direction of the learned Single Judge, he cannot seek retirement benefits. It is also to be noted that till date, the respondent have not paid the rent. For the past 12 years, he has not exercised the option given to him by the learned Single Judge in the writ petition. Therefore, even he has otherwise lost his right to seek conveyance. Having held so, the respondent cannot be left at lurch without his retirement benefits.

10.Therefore, this Court hold that the respondent is entitled for retirement benefits on a condition that he should vacate the tenement and hand over the possession to the appellant/SIDCO within 15 days from the date of receipt of the copy of this order. After handing over the possession, the appellant/SIDCO shall calculate the retirement benefit amount and the arrears of rent after deducting the arrears, they should pay the retirement benefits with interest at the rate of 6% p.a., from the date of his superannuation till the date of payment.



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11..With the above direction, the order of the learned Single Judge is modified and this writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

(G.J.,J.) (S.M.,J.)
14.12.2022

Index: Yes/No
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