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W.P.No.14383 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.14383 of 2013 and
M.P.No.1 of 2013

Stella Ramiah

..

Petitioner

VS

1. The Managing Director
Tamil Nadu Housing Board
Nandanam, Chennai.

2. The Executive Engineer (Administrative Officer)
Coimbatore Housing Board
Tatabad, Coimbatore – 641 012.

..

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India

for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings in Letter No.A20/14419/04-Va.Va dated 26.04.2013 (served only on 03.05.2013) on the file of the second respondent and quash the same as illegal, incompetent and ultravires and consequently direct the second respondent to allot the house at Door No.K-13, LIG Coloy, R.S.Puram, Coimbatore in petitioner's name.

For Petitioners : Mr.Ma.P.Thangavel

For Respondents : Mr.D.Veerasekaran
for R1 and R2



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ORDER

The order dated 26.04.2013 initiating action against the writ petitioner to evict the premises is under challenge in the present writ petition.

2. The petitioner states that her husband late Mr.M.Ramiah was allotted flat No.K-13, LIG Coloy, R.S.Puram, Coimbatore in the year 1980 on lease in monthly rent basis. The husband of the petitioner was in occupation of the rental premises and he died on 14.11.2011. After the death of the husband of the writ petitioner, who was the allottee, the petitioner continued to live in the flat.

3. The learned counsel for the petitioner states that the petitioner is paying the monthly rent and other charges, as applicable, without committing any default, therefore, she must be permitted to occupy the rental flat.

4. As far as the lease on rental basis is concerned, the allottee is not entitled to continue in the premises for indefinite period. On expiry of the lease or on the death or otherwise, the flat allotted must be evicted and to be handed over to the Housing Board.



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5. The learned counsel for the Housing Board made a submission that as per Rules 84 and 85 of the Tamil Nadu Housing Regulation, 1961, on death of the allottees, the flat is to be handed over to the Housing Board by the family members. The allotment cannot be transferred in the name of the family members, since it is a rental lease on monthly basis and therefore, the petitioner is in illegal occupation of the rental premises.

6. The learned counsel for the petitioner states that no show cause notice was issued to the petitioner. This Court is of the considered opinion that handing over the premises on the death of the allottee is one of the allotment conditions stipulated at the time of allotment of rental flat in favour of the husband of the writ petitioner. Therefore, on death, the petitioner is liable to handover the premises to the Housing Board. That apart, the order impugned was passed in the year 2013 and almost 10 years, the petitioner is in occupation of the flat in violation of the Housing Board Regulation. That being the factum,. The petitioner cannot raise such technical ground for the purpose of continuing in the flat, which would result in infringement of public right, since the Housing Board flats are to be allotted to the Government Servants and other eligible persons for the



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purpose of performing public services or otherwise. That apart, such show cause notice is unnecessary, where the lease conditions are clear. Once the lease conditions are known to the lessor and the lessee, the lessee has to comply with the said conditions in accordance with the Board's regulations. The petitioner is also in occupation of the premises for about 12 years after the death of her husband in the year 2011.

7. This being the factum, she cannot continue in the premises and therefore, the petitioner is directed to evict and handover the vacant possession of the Housing Board flat at No.K-13, LIG Coloy, R.S.Puram, Coimbatore within a period of three months from the date of receipt of a copy of this order. In the event of failure to handover the vacant possession, the respondent Housing Board shall evict the petitioner and take possession of the property. If at all the petitioner is eligible for allotment under any other scheme or otherwise, the petitioner is at liberty to submit an application and in the event of any such application, the same should be considered in accordance with the Rules and Regulations in force.



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8. With these observations, the writ petition is dismissed. There

will be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

18.04.2023

Neutral Citation : Yes/No

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S.M. SUBRAMANIAM, J.

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