

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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DATED : 13.06.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.14356 and 14364 of 2023
and WMP.No.13870 and 13877 of 2023

U.Deepa Sandhiya

... petitioner in W.P.No.14356 of 2023

K.Tamil Elavenil

... Petitioner in W.P.no.14364 of 2013
-Vs-

1. Government of Tamil Nadu
Rep. by its Principal Secretary,
Housing and Urban Development Department,
secretariat, Fort St. George,
Chennai 600 009.

2. Tamil Nadu Housing Board
Rep. by its Managing Director,
No.493, Anna Salai, Nandanam,
Chennai 600 035.

3. The Executive Engineer and
Administrative Officer,
Nandanam Division,
Tamil Nadu Housing Board,
No.485, MTB Building,
Nandanam, Chennai 600 035.

4. The Deputy Secretary (Revenue),
Office of the Managing Director,
Tamil Nadu Housing Board,
No.493, Anna Salai, Nandanam,
Chennai 600 035.



5. The Assistant Revenue Officer,
Nandanam Division,
Tamil Nadu Housing Board,
Chennai 600 035.

... Respondents in both the petitions

Common Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus to call for records pertaining to the demand Notice issued by the 5th respondent under Section 84(2) and 85 (1) of the Tamil Nadu Housing Board Act dated 13/03/2023 and quash the same as illegal incompetent and ultravires and consequently direct the respondents to fix the difference in monthly rent due to the anomaly in fixation of rent and refund the excess monthly rent paid by the petitioner by considering the petitioners representation dated 06/02/2023.

For petitioner : Mr. R.S.Maitreya

For Respondent : Mr.N.Senthil Selvi, GA R1
Mr.D.Veerasekaran TNHB RR2 to 5
(in both the petitions)

COMMON ORDER

This petition has been filed seeking to quash the demand Notice issued by the 5th respondent under Section 84(2) and 85 (1) of the Tamil Nadu Housing Board Act dated 13/03/2023 and consequently, direct the respondents to fix the difference in monthly rent due to the anomaly in fixation of rent and refund the excess monthly rent paid by the petitioner by considering the petitioners representation dated 06/02/2023.



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2. It is the case of the petitioner that the 4th respondent issued an allotment order dated 10.03.2020 to the petitioners under public quota. The petitioners were allotted respective plots in Lloyds Colony scheme, Royapettah, Chennai. From the date of allotment, they were residing in the said plots. Subsequently, monthly rent has been enhanced and now they are paying the rent for a sum of Rs.19,085/- per month inclusive of water charges and maintenance charges for the flats. Such being the position, the first respondent issued a Government Order in GO.Ms.No.118 Housing and Urban Development (HB 5 – 2) Department dated 04.07.2017 by enhancing the rent for Tamil Nadu Government Servants Rental Housing Scheme, for which, the Lloyds Colony Welfare Association and some member of the said Association have filed writ petitions in WP.Nos.7596,8736,13535 of 2020 and 7991, 9438, 21860 of 2021 before this Court challenging the said GO and also prayed not to collect enhanced rent fixed by the Housing Board. In such matters, this Court vide order dated 18.05.2020, allowed the writ petition directing the allottees of the association to pay 50% of the enhanced rent. However, the Housing collected different amount as rent from the tenants, therefore, the petitioners sent a representation dated 06.02.2023 to the respondents and requested them to fix



difference in monthly rent. Pursuant to which, the 5th respondent has issued a demand notice dated 13.03.2023 directing the petitioners to pay a sum of Rs.1,57,008/- and 1,05,806/- respectively within ten days from the date of receipt of the notice. Challenging the said demand notice, these writ petitions have been filed.

3. The learned counsel for the petitioners submitted that the respondents failed to give effect to the interim order of this Court dated 18.05.2020 in W.P.No.7596 of 2020 and WMP.No.9032 of 2020. Even after direction of this Court to collect only 50% rent from the petitioners, the respondents have been collecting the enhanced rent, which is unsustainable one. Further, the learned counsel submitted that the 5th respondent, without considering order of this Court and without application of mind, passed an order and continuously collecting the enhanced rent. Therefore, this Court may allow the writ petition.

4. The learned Standing Counsel appearing for the respondents 2 to 5 submitted that the first respondent issued a Government Order in GO.Ms.No.118 Housing and Urban Development (HB 5 – 2) Department, dated 04.07.2017 and



the said GO was issued much prior to the allotment order issued to the petitioners. Some of the allottees have aggrieved over the said GO by enhancing the rent, they filed writ petitions before this Court and obtained interim order. In the present case, the petitioner made application for allotment of plots and the said plots have allotted to the petitioners on 22.02.2021. Thereafter, the petitioners executed a rental agreement in favour of the Housing Board. After execution of the rental agreement, the petitioners aggrieved over the same, made a representation. However, the petitioner cannot claim any reduction of the rent.

5. Heard the learned counsel on either side and perused the materials available on record.

6. Considering the fact that the respondents have passed a Government Order in GO.Ms.No.118 Housing and Urban Development (HB 5 – 2) Department, dated 04.07.2017 by enhancing the rent for Tamil Nadu Government Servants Rental Housing Scheme, for which, some of the residents of the Lloyds Colony Association have filed writ petitions in WP.Nos.7596,8736,13535 of 2020 and 7991, 9438, 21860 of 2021 and obtained interim order. In the present case, the petitioners were allotted a plot in the year 2021 and the G.O. Has been



issued in the year 2017. As per the allotment order, the petitioners were directed to pay the respective monthly rent. Now the petitioner cannot claim the rent as that of the writ petitioner in WP.Nos.7596,8736,13535 of 2020 and 7991, 9438, 21860 of 2021. Hence, the prayer sought for by the petitioner cannot be granted and these writ petitions are liable to be dismissed.

7. Accordingly, the writ petitions are dismissed. No costs. However, liberty is granted to the petitioner to pay the arrears of rent to the Housing within a period four weeks from the date of receipt of a copy of this order. If such amount is paid, the respondent shall not take any coercive steps against the petitioners. Consequently, connected miscellaneous petitions are closed.

13.06.2023

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To

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M.DHANDAPANI, J.

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