

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.9070 of 2023
and WMP(MD)No.8217 of 2023

A.Peter Gnanasekaran

... Petitioner

Vs

1. The Government of Tamil Nadu,
Rep. by its Secretary, Housing and
Urban Development Department,
Secretariat, Chennai 600 009.
2. The Tamil Nadu Housing Board,
Rep. by its Chairman,
CMDA Complex, E and C Market Road,
Koyambedu, Chennai 600 107.
3. The Executive Engineer,
Administrative Office,
Tamil Nadu Housing Board, Thanjavur.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 2 and 3 to re-fix the rent payable by the petitioner to the third respondent in respect of the leased vacant land situated at Old Housing Unit, NTT Colony,

Thanjavur by adopting Rs.1.50/- as the base price per sq.ft. and base year as 2004 in light of the orders passed in W.A.Nos. 3292, 3293, 3424 and 3544 of 2002 dated 15.06.2006 on the file of this Court.

For Petitioner	:Mr.G.Mohan Kumar
For R1	:Mr.N.Muthu Vijayan Special Government Pleader
For R2, R3	:Mr.M.Suresh Standing Counsel

ORDER

The writ petition had been filed in the nature of a mandamus, seeking a direction against the second and third respondents/Chairman and the Executive Officer of Tamil Nadu Housing Board, to refix the rent payable by the petitioner to the third respondent, with respect to the vacant land, which had been leased at Old Housing Unit, NTT Colony, Thanjavur by adopting Rs.1.50/- as the base price per sq.ft. and the base year as 2004, in light of earlier orders passed in the writ appeals.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioner is a tenant under the respondents, with respect to a land measuring 100 sq.ft at Old Housing Unit, Thanjavur on monthly rent, wherein, the petitioner is running a fish shop. Originally, the lease was

granted to the father of petitioner on 10.06.1987 and then allotted to the petitioner, consequent to the death of the father.

3.The petitioner had stated that the rent had been periodically increased. In the year 2018, the rent was fixed as Rs.990/- and in the year 2002, the rent was increased and fixed as Rs.17,339/-. The petitioner had claimed that he had paid the rent till 2020. Thereafter, the petitioner was issued with a show-cause notice for eviction on 16.02.2021. The petitioner had caused to issue a reply notice to the Housing Board/second and third respondents, under Section 138 of the Tamil Nadu State Housing Board Act, 1971, on 22.02.2021 and a rejoinder was received on 31.03.2021.

4.The petitioner had also filed a suit in O.S.No.192 of 2021 to declare that the revision of rent, dated 06.01.2021 is invalid, which is still pending before the District Munsif, Thanjavur. The petitioner had also filed I.A.No.186 of 2021 in O.S.No.192 of 2021, seeking interim injunction, which was dismissed on 01.09.2022. The petitioner had also filed CMA No.6 of 2022 and the same is pending before the Principal Sub Court at Thanjavur. Thereafter, the petitioner had also filed an appeal under Section 86 of the

Tamil Nadu State Housing Board Act, 1971, which is also pending.

5.The petitioner had already filed a suit in O.S.No.192 of 2021 in which, he had filed an interlocutory application in I.A.No.186 of 2021 seeking interim injunction, which was dismissed. The matter is now pending under consideration in C.M.A.No.6 of 2022 before the Principal Sub Court, Thanjavur. The petitioner had also filed an appeal before the Statutory Authority under Section 86 of the Tamil Nadu State Housing Board Act, 1971, which is also pending.

6.Multiplicity of proceeding cannot be encouraged and accepted. When there is already a suit and appeal are pending, the petitioner had again filed the writ petition for the very same relief, ie., questioning the revision of rent by the respondents. The petitioner can agitate the very same relief before the Civil Court.

7.It is also pointed out by the respondents that G.O.Ms.No.82 in Housing and Urban Development (HB3-2) Department had been passed, wherein, a string of buildings are to be demolished. Whether the petitioner's

land is covered in the said G.O or not, cannot be decided by the writ Court.

8.The Appellate Authority before whom the appeal is pending under Section 86 of the Tamil Nadu State Housing Board Act, 1971, may take endeavour to dispose it on or before **31.07.2023**, if the records are available and the parties co-operate for disposal.

9.With the above directions, this Writ Petition stands disposed.
No costs. Consequently, connected miscellaneous petition is closed.

19.04.2023

NCS :Yes/No
Index :Yes/No
Internet:Yes/No

PNM

To

1. The Secretary,
The Government of Tamil Nadu,
Housing and Urban Development Department,
Secretariat, Chennai 600 009.
2. The Chairman,
Tamil Nadu Housing Board,
CMDA Complex, E and C Market Road,
Koyambedu, Chennai 600 107.
3. The Executive Engineer,
Administrative Office,
Tamil Nadu Housing Board, Thanjavur.

C.V.KARTHIKEYAN,J.

PNM

ORDER IN
W.P(MD).No.9070 of 2023
and WMP(MD)No.8217 of 2023

19.04.2023