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W.P.(MD)No.1245 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Writ Petition (MD) No.1245 of 2015
and M.P.(MD) Nos.1 & 2 of 2015

C.Jayaraj

.... Petitioner

-Vs-

1.State of Tamil Nadu
Represented by Secretary
Housing Urban Development Department
Secretariat, Fort St.George, Chennai 600 009.

2.Chairman, Tamil Nadu Housing Board
493, Anna Salai, Nandanam, Chennai-600 035.

3.Executive Engineer and Administrative Officer
Tamil Nadu Housing Board, Ellis Nagar, Madurai.

4.Assistant Revenue Officer
Tamil Nadu Housing Board, Ellis Nagar, Madurai.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records culminated in the impugned notice dated 07.01.2015 issued by the 4th respondent and quash the same as arbitrary, illegal and against Section 84(2) and the procedures of the Tamil Nadu Housing Board Act, 1961 and principles of natural justice.



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For Petitioner : No appearance
For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader for R1
Mr.R.Sivakumar, Standing Counsel for R2 to R4

ORDER

None appeared for the writ petitioner when the matter was listed on the previous occasions. The learned counsel who filed the writ petition had passed away quite some time back. The petitioner has not made any alternative arrangements. However, the learned Standing Counsel was directed to intimate the writ petitioner about the listing of this case today.

2. Shri R.Sivakumar, learned Standing Counsel for the Housing Board informs the Court that, through a Junior Assistant by name Karthik the petitioner was informed in person and in writing. However, the petitioner is said to have refused to receive the intimation from the said staff. It is further stated that intimation was also sent through RPAD.

3. I went through the contents of the affidavit filed in support of the writ petition. The writ petitioner was allotted the petition mentioned shop that is situated at Ellis Nagar by the respondent Housing Board. The allotment was made way back in



the year 1987. The stand of the Board is that even though the allottee is liable to pay enhanced rent, he had not done so and as a result the rental arrears accumulated to a sum of Rs.3,20,292/- in the year 2014. Hence, the impugned order under Section 84(1) of TNHB Act, 1961 was passed calling upon the petitioner to vacate the shop premises within one month. Challenging the same, the present writ petition came to be filed. On 02.02.2015, the following interim order was passed:

" The writ petition has been filed with a specific affidavit of undertaking that they were given rental agreement in the year 1987 and as per the rental agreement, the rent has to be increased once in three years.

2. Learned counsel for the petitioner fairly submitted that they are always ready and willing to follow the original rental agreement.

3. It is seen that the petitioner has been running business without paying correct rent even as per the original rental agreement. According to them, the petitioner is paying rent at the rate of Rs. 1,208/- which has been increased at 15% in 1991. Even though she has stated that she filed an appeal for fixing the fair rent, that cannot apply. Hence, notice of motion returnable in two weeks, with a specific condition that the petitioner pays a sum of Rs.3,00,000/- within two weeks, failing which the authorities are entitled to take further course of action in accordance with law.



4. Post the matter after two weeks."

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4. A memo was filed indicating compliance of the conditions imposed by this Court.

5. Today when the matter was taken up for final hearing, the learned Standing Counsel informs the Court that the arrears have mounted to Rs.17,10,436/-.

6. In the affidavit it has been stated that as per the allotment conditions and norms, the rent is liable to be enhanced at 15% for every three years and so computed, the petitioner's current rent comes to Rs.14,387/-. I called upon the learned Standing Counsel as to how he arrived at this amount. He is unable to assist the Court. The instructing official is no better. In these circumstances, the writ petition is disposed of with the following directions.

- (a) The Housing Board shall serve a memo of calculation along with notice of demand, calling upon the petitioner correctly quantifying the rental amount and calling upon the petitioner to settle the entire arrears within a period of 30 days.



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(b) If the petitioner complies with the demand, the issue shall be given a quietus. If the petitioner fails to make the payment within the stipulated period, the impugned order directing his eviction shall be enforced.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

23.08.2023

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Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

KST

To

- 1.The Secretary to Government of Tamil Nadu
Housing Urban Development Department
Secretariat, Fort St.George, Chennai 600 009.
- 2.Chairman, Tamil Nadu Housing Board
493, Anna Salai, Nandanam, Chennai-600 035.
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G.R.SWAMINATHAN, J.

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