



W.P.No.613 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.613 of 2024

N.Narayanamoorthy .. Petitioner

Vs.

1. The Government of Tamil Nadu
Rep. by its Secretary
Housing and Urban Development Department
Fort St. George, Chennai – 1.

2. The Competent Authority
Executive Engineer & Ad.O
K.K.Nagar Division
Tamil Nadu Housing Board
Anna Nagar, 2nd Avenue
Chennai – 40.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for the records of the 2nd respondent in respect of his notice dated 25.05.2022 and the final order dated 18.12.2023 and quash the same and thereby forbear the respondents from interfering in the petitioner's property in S.Nos.70/2B1 etc., Door No.9/7, Perumal Koil Street, Nerkundram Village, Thiruvallur District.



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For the Petitioner : Mr.N.Suresh

For the Respondents : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.A.Selvendran
Special Government Pleader
for R1

Mr.D.Veerasekaran
for R2

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.N.Suresh, learned counsel for the petitioner, Mr.J.Ravindran, learned Additional Advocate General assisted by Mr.A.Selvendran, learned Special Government Pleader for the first respondent and Mr.D.Veerasekaran, learned counsel for the second respondent.

2. Learned counsel for the petitioner submits that the impugned order, passed by the competent authority under Section 84(1) of the Tamil Nadu Housing Board Act, 1961 [for brevity, hereinafter referred as "the Act of 1961"] is in contravention of Section 84(4) of the Act of 1961. No opportunity was given to the petitioner to appear before the



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authority. The objection raised by the petitioner has also not been considered by the authority. The possession/construction has been regularized by the Government under its order dated 11.04.2019. In view of that, the competent authority could not have termed the same as an encroachment.

3. Under Section 86 of the Act of 1961, the petitioner has a remedy of appeal.

4. Learned counsel for the petitioner submits that the petitioner was never served with a copy of the order. It is only when the copy of the order was filed in the writ petition, the petitioner could get it from the Court. However, the order was never served upon the petitioner.

5. Considering the fact that substantive appeal is available against the impugned order and that the petitioner was earlier issued with a show-cause notice, we are not inclined to entertain the present writ petition. The petitioner is at liberty to avail the alternate remedy of appeal. If the appeal is filed within a period of seven days from



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today, the same shall be considered to be filed within the limitation.

The copy of the impugned order, filed in the present writ petition, shall be considered as the order served upon the petitioner and based on the same, the appeal be entertained for hearing.

6. The appellate authority shall thereafter decide the appeal on its own merits and in accordance with law expeditiously. The appellate authority shall also consider the application for interim relief filed by the petitioner on its own merits.

7. In light of the above, the writ petition stands disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.613 and 614 of 2024 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

11.01.2024

Index : Yes/No

Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

(drm)

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