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W.P.No.25003 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.25003 of 2012
and M.P.Nos.1 & 2 of 2012

S.Muniammal

... Petitioner

Vs.

1.The Director General of Police,
Office of the Director General of Police,
Mylapore,
Chennai – 600 004.

2.The Inspector General of Police,
Office of the Inspector General of Police,
Armed Police,
Kilpauk, Chennai – 600 010.

3.The Commandant,
R.S.P. 5th Company,
Avadi,
Chennai 600 109.

4.Regional Police Transport Workshop,
Rep. by its Engineer,
Trichy – 12.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the order of the fourth respondent in Memo



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Na.Ka.No.B1/1458/2010 dated 28.02.2012 and quash the same and thereby directing the first and second respondents to cancel the levy of penal rent on the petitioner in respect of quarters bearing No.12/9, Police quarters, Sathiyamoorthy Nagar, Chennai – 600 062.

For Petitioner : Mr.S.S.Swaminathan

For Respondents 1 to 4 : Mr.C.Selvaraj,
Additional Government Pleader

ORDER

The petitioner has filed this writ petition to call for the records relating to the order of the fourth respondent in Memo Na.Ka.No.B1/1458/2010 dated 28.02.2012 and quash the same and thereby directing the first and second respondents to cancel the levy of penal rent on the petitioner in respect of quarters bearing No.12/9, Police quarters, Sathiyamoorthy Nagar, Chennai – 600 062.

2. Learned counsel for the petitioner submitted that the petitioner's husband has served as Technical Assistant in the Regional Police Transport Workshop, Trichy/the fourth respondent and thereafter, transferred to Avadi Workshop. The third respondent allotted the house bearing No.12/9, Police



Quarter, Sathiyamoorthy Nagar, Chennai in the year 2003. Due to a road accident and sudden chest pain, the petitioner's husband died on 08.11.2006. and due to the sudden demise of her husband, the petitioner approached the third respondent to allow/permit her to continue in the same quarters and the third respondent taking into account that the quarters in the occupation of petitioner was not in good tenable condition, allowed her to live there and advised her to pay the electricity charges alone.

3. Learned counsel for the petitioner submitted that during the last week of July 2008, the third respondent directed the petitioner to vacate and deliver the possession of the quarters. Accordingly, the petitioner has vacated the same and handed over the possession of the quarters in the first week of August 2008 itself. This being so, the fourth respondent issued a memo dated 27.08.2008 to the petitioner, directing her to deliver the possession of the police quarters at Avadi and also to pay penal rent to the third respondent. Even prior to the date of the above said memo, the petitioner has vacated and delivered the possession of the quarters bearing No.12/9, Police Quarters, Sathiyamoorthy Nagar, Chennai to the third



respondent. Therefore, the petitioner sent a representation dated 04.11.2008 to the second respondent, seeking to cancel the levy of penal rent. In the meantime, the third respondent by proceedings in Na.Ka.No.C2/9165/2008 dated November 2008 directed the fourth respondent to deduct a sum of Rs.89,576/- from the pension. Hence, the petitioner has sent another representation dated 26.11.2008 to the second respondent seeking to cancel the levy of penal.

4. Learned counsel for the petitioner would further submit that the fourth respondent issued a memo dated 02.03.2009 calling upon the petitioner to show cause, why the penal rent should not be recovered from the pension. Immediately, the petitioner has sent a representation dated 16.03.2009 to the second respondent and marking copy to the respondents 3 & 4 and the same was acknowledged by all the respondents and was not disposed of. Therefore, the petitioner has filed writ petition before this Court in W.P.No.6746 of 2009, seeking direction to the respondents 2 & 3 to cancel the levy of penal rent in respect of quarters bearing No.12/9, Police Quarters, Sathiyamoorthy Nagar, Chennai 600 062 and this Court vide order dated



17.04.2009, directed the second respondent to consider the petitioner's representation dated 16.03.2009, within a period of twelve weeks from the date of receipt of a copy of that order. Pursuant to the order of this Court, the second respondent revised and modified the penal rent to be recovered i.e., the three times of the eligible house rent as 1 ½ times of the eligible house rent by order dated 12.10.2009.

5. Learned counsel for the petitioner would further submit that the petitioner has made a representation to the second respondent seeking to cancel the entire modified penal rent. The second respondent by letter dated 29.01.2010 intimated that her representation is under consideration. Further the second respondent by letter dated 01.07.2010 requested the first respondent to pass orders at the earliest and the same was intimated to the petitioner. Thereafter, the fourth respondent issued a memo in Na.Ka.No.B1/1458/2010 dated 28.08.2012. Challenging the same, the petitioner has come forward with the present writ petition.

6. Counter affidavit was filed by the respondents on 12.02.2013.



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Learned Additional Government Pleader appearing for the respondents submitted that the petitioner died on 08.11.2006 and from 09.11.2006 to 27.08.2008, the petitioner was in unauthorized occupation of the Police Quarters and no permission was given by the Commandant, permitting her to stay in the quarters. Hence, she is liable to pay the penal rent and as per the order of the fourth respondent, the rent for 1 ½ times comes to a sum of Rs.44,788/- for the period from 09.11.2006 to 27.08.2008. The rent payable to the quarters is of the sum of Rs.1380/- per month and the same was being paid to the respondents by the petitioner's deceased husband till his demise. The period of stay from 09.11.2006 to 27.08.2008 is 21 months. If the amount is calculated for 21 months, the total rent payable by the petitioner for the stay from 09.11.2006 to 27.08.2008 comes to Rs.28,980/- (i.e., 1380 X 21 = 28,980/-).

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

8. In the case on hand, the petitioner is the wife of the deceased police



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personnel, who was working under the Commandant Tamil Nadu Special Police, 5th company, Avadi, Chennai – 600 109. The petitioner is a home maker, she does not have any children and is a sole legal heir of the deceased police personnel and there is no source of income apart from the family pension. **Since, the rent fixed for that quarters is a sum of Rs.1380/-, it will be appropriate to direct the petitioner to pay that rent for a period of 21 months at the rate of Rs.1380/- per month for which she stayed in the quarters and the total rent comes to a sum of Rs.28,980/-.**

9. In view of the above, the petitioner is directed to pay the above sum of Rs.28,980/- by way of three equal monthly installments and the date of payment of installments are as follows:

- (i) 1st installment – on or before 10th March 2024
- (ii) 2nd installment – on or before 10th April 2024
- (iii) 3rd installment – on or before 10th May 2024

10. This writ petition is disposed of with the above observation and



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direction. No costs. Consequently, connected miscellaneous petitions are also closed.

31.01.2024

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Index : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No

J.SATHYA NARAYANA PRASAD,J.

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