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W.P.No.17565 of 2024 etc. b



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.08.2024

Pronounced on: 25.10.2024

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.17565, 17596, 17593, 17574, 17581 & 17586 of 2024, 7971, 7975 of 2020, 7991 of 2021, 9438 & 21860 of 2021, 10784 of 2022 & 15359 of 2022

and

WMP.Nos.19356, 19360, 19374, 19362, 19354, 19370, 19383, 19385, 19380, 19371, 19376, 19379, 19363 & 19367 of 2024, 14994 of 2023 & 9410 & 9409 of 2020, 9413, 9415 & 9412 of 2020 & 14995 of 2023, 3755 of 2023 & 8548 of 2021, 23045 & 10023 of 2021 & 34041, 34043 & 17527 of 2022, 10421, 10423 & 10425 of 2022 & 16499 of 2023 & 14512 of 2022

W.P.No.17565 of 2024:

K.Ramathal

...Petitioner

Vs.

1.Tamil Nadu Housing and Urban Development Department,
Represented by the Principal Secretary,
Fort St. George,
Chennai-600 009.

2.Tamil Nadu Housing Board,
Represented by Managing Director,
CMDA Building, Koyembedu
Chennai.

3.The Executive Engineer,
Tamil Nadu Housing Board,
Pattinapakkam Division,
Nandanam, Chennai-600 035.

4.Chief Revenue Officer,
Tamil Nadu Housing Board,

<https://www.mhc.tn.gov.in/judis>



CMDA Building,
E and C Shop Road,
Koyambedu, Chennai-600 107.

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5.The Assistant Revenue Officer
Pattinapakkam Division,
Tamilnadu Housing Board
No.485, Anna Salai, Nandanam,
Chennai-600 035.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari and Mandamus to call for records relating to the Order passed by the 1st Respondent vide Letter No.4699524/Vi.va.3(2)/2023-5 dated 03.10.2023 and the Order passed by the 4th Respondent vide Letter No.Va.Vaa.Pi.2/13312/2015 dated 01.06.2022 and the Order passed by the 5th respondent Letter No.P.Pa.Ko./0388/2016-5 dated 12.06.2024 and quash the same, and consequently forbear the Respondents from evicting the Petitioner from the allotted property at C-2, MIG Flats, TNHB Pattinapakkam, Chennai without following or contrary to the procedure and provisions under Tamil Nadu Housing Board Act 1961.

Case Nos.	For Petitioners	For Respondents
WP.Nos.17565, 17596, 17593, 17581, 17574 & 17586 of 2024	Mr.Niranjana Rajagopalan	Mr.VadiveluDeenadayalan (for R1) Additional Government Pleader Mr.D.Veerasekaran (for R2 to R5)
WP.Nos.7971 & 7975 of 2020 & 10784 of 2022	Ms.R.J.Radhika	Mr.VadiveluDeenadayalan (for R1) Additional Government Pleader Mr.D.Veerasekaran (for R2 & R3)
WP.No.9438 of 2021	Ms.V.Meenakshi	Mr.P.Harish (for R1) Government Advocate



		Mr.D.Veerasekaran (for R2 & R3)
WP.No.7991 of 2021	Ms.A.Vinupradha	Mr.VadiveluDeenadayalan (for R1) Additional Government Pleader Mr.D.Veerasekaran (for R2 & R3)
WP.No.21860 of 2021	Mr.Digvijaya Pandian Petitioner-in-Person	Mr.P.Harish (for R1) Government Advocate Mr.D.Veerasekaran (for R2 & R3)
WP.No.15359 of 2022	Mr.C.R.Srinivaas Acharya Petitioner-in-Person	Mr.VadiveluDeenadayalan (for R1) Additional Government Pleader Mr.D.Veerasekaran (for R2 to R4)

COMMON ORDER

There are 13 writ petitions in this batch of Writ Petitions. The petitioners are allottees of the Tamil Housing Board flats at three locations, (i) Pattinapakkam, Chennai, (ii) Cox Square, Chennai and (iii) Lloyds Colony, Chennai. This order is hence divided into three parts. The first part deals with the allottees of flats at Pattinapakkam, the second at Cox Square and the third at Lloyds Colony.

2. As regards the Writ Petitions dealing with allottees of flats at Pattinapakkam, the details of the units allotted to each petitioner and the relief sought for in the respective Writ Petitions are tabulated below:

<i>S.No</i>	<i>Name</i>	<i>W.P. No</i>	<i>Address</i>	<i>Prayer</i>
1.	M. Anand	17593/2024	F-2, MIG Flats, TNHB Pattinapakkam,	Direction to forebear the respondents from evicting the petitioner.



2.	K. Ramathal	17565/2024	Chennai – 600 028. C-2, MIG Flats, TNHB Pattinapakkam, Chennai – 600 028.	Direction to forebear the respondents from evicting the petitioner.
3.	Shanthi Selvam	17574/2024	F-2, MIG Flats, TNHB Pattinapakkam, Chennai – 600 028.	Direction to forebear the respondents from evicting the petitioner.
4.	S. Malarkodi	17596/2024	C-3, MIG Flats, TNHB Pattinapakkam, Chennai – 600 028.	Direction to forebear the respondents from evicting the petitioner.
5.	S. Parthiban	17581/2024	L-2, MIG Flats, TNHB Pattinapakkam, Chennai – 600 028.	Direction to forebear the respondents from evicting the petitioner.
6.	S. Vidyashankar	17586/2024	C-1, MIG Flats, TNHB Pattinapakkam, Chennai – 600 028.	Direction to forebear the respondents from evicting the petitioner.

3. The common contentions of the petitioners as advanced by Mr.Niranjan Rajagopalan, learned counsel appearing on their behalf is as follows:

- (i) The land in which the Pattinappakkam Housing Board tenements are now situated were originally acquired by the Madras Collector for the Madras City Improvement Trust from a Temple as well as from few individuals.
- (ii) The purpose of acquisition was rehabilitation of surplus families from the slums.
- (iii) It was during the tenure of Chief Minister K.Kamaraj that the Pattinapakkam Housing Board tenements were constructed using a



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specialized building technique quite different from the methodology utilized for normal city dwellings.

- (iv) Over the years, the petitioners have been residing in those tenements and have been remitting rent and other charges.
- (v) The authorities have been entirely negligent in maintaining the structures despite collecting maintenance charges.
- (vi) Despite the fact that the petitioners had been complying with all the requirements towards rent and other charges, there had been unfair measures adopted by the respondents towards enhancement of the rent which had been the subject matter of manifold litigation.
- (vii) The litigation had been triggered by notices issued by the authorities seeking to evict the allottees from the Housing Board alleging non-payment of arrears of rent and enhanced rent.
- (viii) The eviction notices had put forth a false case that the buildings were structurally weak and dilapidated, requiring immediate demolition to secure the safety of the inmates and the public in the area.



- (ix) W.P.No.6823 of 2019¹ had been filed by one of the members of the Pattinapakkam Housing Board Association challenging demolition.
- (x) An Advocate Commissioner had been appointed by this Court in that matter. Taking note of the Commissioner's report, an order had come to be passed by this Court on 28.08.2019 observing that the Commissioner had reported that several of the flats are habitable and hence it could not be said that over all, the building was dilapidated.
- (xi) The Court in the Writ Order had also noticed that on 30.01.2019, a rent enhancement notice had been issued to that petitioner and hence that would fall foul of the authorities' stand that the building was not habitable.
- (xii) The Pattinapakkam Medium Income Group (MIG) Welfare Association had filed W.P.No.41395 of 2002 also challenging enhancement of rent. Even in the counter affidavit to that Writ Petition, the stand taken by the authorities was that the increase in rent was to justify the maintenance requirements and this would

¹M.Chitra V. The Principal Secretary, Housing & Urban Development Department and another dated 28.08.2019



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also support the stand that the buildings were not uninhabitable or dilapidated but only called for maintenance.

- (xiii) Despite the aforesaid trajectory of events, notices continued to be issued reiterating the call to the residents to evict the premises.
- (xiv) The notices are challenged on the grounds that the buildings are in good condition and not dilapidated, needing only maintenance.
- (xv) They are also challenged on the ground that the buildings house senior citizens as well as residents who are mostly retired and hence they cannot be turned on to the streets.
- (xvi) The impugned notices also do not provide assurance of alternate accommodation.
- (xvii) The representations made by the petitioners putting forth their grievances as aforesaid have met with stony silence on the part of the respondents.
- (xviii) W.P.No.14129 of 2022 had also been filed by the Residents Association seeking Writ of Prohibition prohibiting the respondent from evicting the residents. That Writ Petition was permitted to be withdrawn with liberty granted to the petitioners to challenge specific notices, if any received from the authorities, in accordance with law.



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- (xix) On the basis of the aforesaid admitted facts, the petitioners would seek relief as set out in column 4 of the tabulation above setting out the relief sought in the respective Writ Petitions.
- (xx) They would, in common refer to Section 84 of the Tamil Nadu State Housing Board Act, 1961 (in short ‘TNSHB Act’) assailing the eviction orders on the ground that demolition on the ground of unsuitable structure or any of the grounds now put forth by the respondents do not find mention in that provision.
- (xxi) Section 84 grants power to evict persons if they have not paid rent, sub-let the premises without permission, acted in contravention of any of the lease terms either express or implied, or unauthorized occupation. None of the grounds are attracted in the present case.

4. At this juncture, it is necessary to specifically refer to the submissions of Mr.D.Veerasekaran, learned Standing Counsel for the Tamil Nadu Housing Board, who states that all the petitioners are in arrears of rent of various amounts.

5. The common submission also advanced by the petitioners is that the present eviction is a proposal by the State to demolish buildings and re-develop them into commercial spaces. They rely on the announcement made in the Legislative Assembly that the respondents/State now propose to construct a



business centre containing office space, malls and hotels in the present location of the tenements. It is only for this reason that the petitioners allege that they are being evicted in such great hurry.

6. They refer to the order passed in W.P.No.18978 of 2022 filed by one allottee in the Foreshore Estate tenements which had been disposed on 26.07.2022 setting aside the order impugned in that Writ Petition and directing the respondents to pass orders afresh following the procedure set out for eviction under Section 84(2) of the TNSHB Act.

7. They would submit that some of the residents have preferred statutory appeals under Section 86 of the TNSHB Act, which have also not seen the light of the day. They refer to various orders passed by the Madras High Court on similar facts and circumstances granting relief to those allottees.

8. Mr.D.Veerasekaran, learned Standing Counsel for the Housing Board, Mr.Vadivelu Deenadayalan, learned Additional Government Pleader and Mr.P.Harish, learned Government Advocate for the State would very strenuously contest the relief sought. They would rely on the contents in the counters filed by the Chief Executive Engineer of the Tamil Nadu Housing Board (TNHB). They would contest the Writ Petitions on the ground that the decision to evict the petitioners is based solely on the report of the assessment of the tenements made by the competent authority and the resolutions of the TNHB passed thereafter.



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9. Undoubtedly, the petitioners are allottees under the Housing Board Scheme. The respondents would submit that there is no deficiency in the maintenance of the buildings and due care has been accorded to the upkeep of the same to the best extent possible. In this regard, they would draw attention to the paucity of funds for such measures, particularly seeing as a significant number of allottees have defaulted in the payment of rent.

10. Be that as it may, the present call for eviction is solely taken in the interests of the allottees as well as the general public. The proposal for demolition of the tenements is not new. The flats have been constructed under the Government Servants' Rental Housing Scheme, 1961 and over the years, have deteriorated. As early as in 2017 and 2018, measures were taken to ascertain the stability of the buildings in various housing board constructions.

11. Technical committees were constituted along the lines of the Committees formed by the Tamil Nadu Slum Clearance Board. The Committee was tasked with ascertaining the structural soundness of the housing board flats. A joint inspection was conducted and an inspection report had been submitted on '*structural damage assessment of 96 Board's rental flats at Foreshore Estate, Chennai division Tamil Nadu Housing Board*' in January, 2020. That report, a copy of which is placed before Court, concludes with a recommendation that the



existing buildings be demolished and new development be planned as per the revised and extant development rules.

12. The petitioners would seriously contest the contents of this report. They would submit that inspection was made selectively only in respect of some of the units which are in bad condition. The photographs that are annexed revealing gross structural damages are more an exception rather than the norm.

13. They would submit that a significant number of units are in good condition and even those that have minimal damage are being repaired to ensure stability. In this regard, supporting affidavit dated 08.07.2024 has been filed by one R.Murugesan, who is stated to be a resident of D/5 MIG Block, Tamil Nadu Housing Board Flats, Foreshore Estate, Pattinapakkam, Chennai – 28.

14. In his affidavit, he refers to the inspection conducted by the officials in 2020. He also states that he had perused report dated 08.01.2020 in the litigation initiated by the Residents Association. He states that on 08.01.2020, he was present in the premises. He denies that a Committee had visited the premises stating that only the Executive Engineer/R3 had visited the place and clicked photographs of some units in block H of the TNHB flats. He was not accompanied by any other officials and neither had he conducted an in- depth verification of all the blocks.



15. In support of his allegations, he refers to a reply received by him under the Right to Information Act, 2005 by the Public Information Officer of the TNHB dated 07.09.2021 to his query dated 09.08.2021. In that reply, he had stated that inspection was not conducted in the place where the tenants are residing and that investigation was made only in vacant blocks.

16. He had also submitted another query on 21.07.2023 in regard to the maintenance of the Foreshore Estate units. The query received reply dated 22.09.2023 confirming that there are no records available in regard to any maintenance works for the apartments. His query dated 08.11.2023 specifically seeking information about the details of inspection was rejected on 07.12.2023 and the statutory appeal also met the same fate. In all, he would deny report dated 08.01.2020 as being unreliable and false to the knowledge of the respondents.

17. He states that there are multiple blocks of apartments in Foreshore Estate and while the fact remains that no maintenance has been carried out, for close to 40 years leaving the exterior of the building vulnerable to the vagaries of the weather, the structure per se, as well as the interiors are stable and habitable.

18. The petitioners have, fairly, circulated a copy of the order of the Division Bench dated 28.11.2018 in W.A.No.2583 of 2018². That Writ Appeal was filed by the allottee of flat Q3 of the Kilpauk Garden Colony, Tamil Nadu

²P. Ravisankar V. State of Tamil Nadu and others dated 28.11.2018
<https://www.mhc.tn.gov.in/judis>



Government Rental Housing Scheme seeking a provision for alternate accommodation, while challenging an order of eviction.

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19. The Writ Appeal came to be dismissed, the Court holding that if the premises of the allottee has become dilapidated, the State would have no option but to demolish the same and ensure the safety of the inmates and public.

20. As regards the assurance sought for alternate accommodation, the Bench rejects that plea stating that no allottee could, as a matter of right, seek alternate accommodation. The State has no such policy for grant of alternate accommodation and the petitioner's demand for such alternate accommodation was thus misconceived and liable to be rejected.

21. In the present matters as well, some of the petitioners have contested the impugned orders of eviction on the ground that no premises are being given for alternate accommodation. In light of the decision of this Court in the case of *P.Ravishankar*³, there is no merit in this demand. At best, the petitioners/existing allottees can make a request to the State/authorities of the TNHB for alternate accommodation, which may be considered by them in accordance with the existing rules and regulations. No further relief could be sought in that regard.

22. The litigation already initiated by various allottees have more or less, all led to one conclusion, being the confirmation of orders of eviction granting time to the allottees to vacate the premises. In the case of challenge to

³Foot Note 1
<https://www.mhc.tn.gov.in/> Supra (2)



enhancement of rent, the Courts have intervened solely to the extent of granting additional time to the residents to settle the pending arrears. I see no reason to take an alternate approach in these cases.

23. In my considered view, reference to Section 84 of the TNSHB Act would not support the case of the petitioners. Undoubtedly, Section 84 dealing with the power to evict, sets out certain situations where an order of eviction may be passed. The circumstances are, where rent lawfully due has not been paid, the premises have been sub-let, the lessees are in contravention of the terms of the rental agreement or where there is unauthorized occupation of the premises. However, and needless to state, dilapidation of a building rendering it unsafe for occupation is, in my considered view, a valid reason for eviction.

24. Structural instability poses a threat/public hazard, both to the inmates/occupants of the building as well as to the public in that area. In fact, the Corporation is under a statutory responsibility to ensure that any building which is structurally unsound, after having declared it to be so after proper inspection, is secured and the interests of the residents and those in the vicinity are protected. They are bound to take all measures to secure the area by resorting to all available measures, including eviction and demolition if necessary, and at their discretion, to be exercised in a responsible manner. Thus reliance on Section 84 is of no assistance to the petitioners.



25. On the contrary, Section 274 of the Chennai City Municipal Corporation Act, 1919 casts a responsibility on the authorities to be vigilant about the condition of public buildings and ensure that they are fit for public use. The exercise of decision making as to whether a building is structurally fit/unfit, for occupation, must be left to the authorities.

26. The objections in regard to the technical report on fitness of the tenements turn purely in the realm of questions of fact that I would best leave to the authorities. The authorities, have in compilation dated 04.07.2024, brought to the notice of the Court that the proceedings for sprucing up the housing board tenements, demolishing the tenements unfit for use and generally tending to their upkeep has been on for more than 2 decades. In my considered view, it would not be proper for this Court to stand in the way of those measures.

27. The petitioners have referred to the report of the Advocate Commissioner in W.P.No.6823 of 2019⁴ and the order of this Court dated 28.08.2019 relying on that report, and stating that the flats are in habitable condition. One of the residents has deposed that the inspection was done only by an individual and selectively. Again the Court reiterates that these are exercises in the realm of fact finding and this Court is reluctant to render a finding one way or the other. In any event, the order of this Court produced by the parties is dated August, 2019 and five years have passed by since.

⁴Foot Note Supra (1)
<https://www.mhc.tn.gov.in/>



28. The report of the Technical Committee sets out the background to the matter in the following terms:

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Tamil Nadu Housing Board has constructed 1284 TNGRHS Flats and 96 TNHB Board Rental Flats in the year of 1963 and maintaining as on date. Almost all the Rental flats have been dilapidated and after obtained the recommendation to demolish the Building from Technical Committee of Anna University and various Government orders, 1112 Rental Buildings were demolished between the year 2002 and 2009 in phased manner 172 TNGRHS flats were demolished in 2018-19. Now 96 Board Rental flats alone is in existence. These buildings are almost 57 years old and designed based on the working stress method. The buildings are of G+2 floors and consist of 16 Blocks having a plinth area of 1350, 950 and 550 sq. ft., respectively in each flat in each block, constructed within the area of 21.38 Ac. At present, out of 96 flats, 5 Nos. of Government Employees and 84 Nos. of General Public are occupied on Rental basis. Remaining 7 flats are vacant.

The layout plan and the brief specification of the building are given in Appendix A and B respectively. The photographs showing the damages in the buildings are enclosed in Appendix 'C'.

29. The observations of the Committee are as follows:

The committee members inspected the Flats and have thoroughly assessed the current conditions of the flats and jointly concluded the various factors and implications on the structural soundness of the buildings. The salient visual observations are as follows:

- RCC sunshades, parapet walls, and other peripheral thin wall elements including stilt beams are completely damaged in almost all the flats and fallen off due to corrosion, as the buildings are located closer to the seashore, almost 300 m away from the ocean. Further, it is observed that these sunshades have been replaced with temporary sunshades having triangular truss with AC sheet.*



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- *Plastering has completely gone in the exterior walls of the Flats exposed to corrosion environment and the binding mortar between the bricks are uncovered which may aid for further deterioration.*
- *The circular columns exposed to the outer environment are corroded completely at the middle level and the corroded main and stirrup reinforcement are exposed. The diameter of the columns has been reduced to almost half the original diameter and the exposed corroded rods may further damage the building as columns are one of the main structural elements. PHOTO*
- *The surfaces of the wall in the plumbing area are moist and full of fungal growth. Bathrooms and toilets are prone to be non-functional due to heavy corrosion and seepage of water from the plumbing pipelines. Hence, these are not in a repairable condition.*
- *Continuous horizontal cracks are running across, throughout the entire building parallel to the roof slab at 2/3rd height of the building. In addition, vertical cracks and 45° shear cracks are also seen, which showed a clear sign of settlement problem, particularly in MIG-A Type.*
- *All the garages have been heavily damaged due to aging and cannot be repaired. Heavy corrosion due to the presence of seashore being closer to the site.*
- *Though very good structural system has been designed for placing water tank in the terrace, the sunken slab for toilet over which, the slab for resting the water tank and the load bearing walls supporting the water tank are damaged due to corrosion and aging PHOTO*

30. The recommendations made based on the observations extracted above are as follows:

Recommendations

As the building was constructed by following working stress method, the damages due to long term secondary effects like, creep, shrinkage and other stress concentration seemed to have weakened the load bearing walls, in addition to corrosion. No possibility of these buildings surviving since almost 50 percent of the walls are already fallen.



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Based on the visual observations and the overall assessment on the structural soundness of the building, the committee suggests the following recommendations:

- *Structural damages are observed to be beyond repair.*
- *Steel inside is corroded even though it is invisible from outside.*
- *All the secondary RCC members like sunshades, peripheral thin walls have gone.*
- *The RCC slab supporting the water tank is corroded on terrace and the RCC tank is supported on load bearing walls.*
- *The primary structural elements, the slabs and the RCC columns including stirrups are heavily damaged and the buildings can collapse at any time.*
- *The 45° cracks on the outer face which is due to settlement.*
- *Brick work is exposed with mortar joints failure and the mortar joints have come out in most of the exterior walls.*
- *Since buildings are dangerously positioned, the occupants should be warned to vacate and the area should be cordoned off before the structures are demolished or pulled down. It is not possible to repair as the structures are beyond repair.*
- *As reported by them, the buildings constructed during the same period have already been demolished. Besides, these buildings have outlived their life time. On the whole, the structures are unstable since they are quite old and it will not be possible to bring back the stability of the structures even by repairs.*

Hence, it is recommended to demolish the existing buildings and to plan a new development as per new revised Codes and current development rules.



31. Out of total number of allottees, only 6 allottees are before this Court and the process of demolition and revamping of the housing board scheme has been thwarted on account of a mere handful of the present allottees having come to Court.

32. In W.A.Nos.453 to 457 of 2019⁵, in an order passed on 01.03.2019, several similarly placed allottees challenged an order passed by the Writ Court on 28.09.2019 for eviction. The argument even in that case was that no scientific study had been made before the order of eviction was issued in anticipation of demolition of the buildings.

33. There was reference to Section 84(1) in that matter as well. Those Writ Petitions were dismissed ultimately, granting two months' time to the allottees to handover vacant possession of the respective accommodation. The Court specifically granted liberty to the authorities to dispossess the defaulting allottees, if they do not vacate peacefully, using police aid, if necessary. The order of the Division Bench as above supports the conclusions in this order as well.

34. In light of this discussion, I see no reason to intervene in the orders of eviction and confirm the same. Let the authorities proceed with matters as appropriate giving sufficient time to the residents to vacate the premises for

⁵T. Somanathan and others V. Principal Secretary to Government and others
<https://www.mhc.in.gov.in/>



further action. Writ Petitions relating to Pattinappakam housing board tenements stand dismissed.

35. As far as the Writ Petitions dealing with allottees of flats relating to Cox Square colony, the details of the units allotted to each petitioner and the relief sought for in the respective Writ Petitions are tabulated below:

<i>S.No</i>	<i>Name</i>	<i>W.P.No.</i>	<i>Address</i>	<i>Prayer</i>
1.	<i>D. Senthilnathan</i>	<i>7975/2020</i>	<i>TNHB Flat No. 25, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to the respondent to continue to levy rent and to refund Rs. 6,880/- being the differential enhanced rent.</i>
2.	<i>S. Rajkumar</i>	<i>7975/2020</i>	<i>TNHB Flat No. 1, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to the respondent to continue to levy rent and to refund Rs. 6,880/- being the differential enhanced rent.</i>
3.	<i>S. Radhakrishnan</i>	<i>7975/2020</i>	<i>TNHB Flat No. 33, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to the respondent to continue to levy rent and to refund Rs. 6,880/- being the differential enhanced</i>



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W.P.No.17565 of 2024 etc. b



4.	<i>Vasuki Veeramani</i>	7975/2020	<i>TNHB Flat No. 44, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>rent. Direction to the respondent to continue to levy rent and to refund Rs. 6,880/- being the differential enhanced rent.</i>
5.	<i>Loganathan</i>	7975/2020	<i>TNHB Flat No. 48, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to the respondent to continue to levy rent and to refund Rs. 6,880/- being the differential enhanced rent.</i>
6.	<i>D. Rajan</i>	7975/2020	<i>TNHB Flat No. 19, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to the respondent to continue to levy rent and to refund Rs. 6,880/- being the differential enhanced rent.</i>
7.	<i>M.P. Meera Pannaiyar</i>	7971/2020	<i>TNHB Flat No. 3, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
8.	<i>A.V. Selvakannan</i>	7971/2020	<i>TNHB Flat No. 2, Cox Square Area, Chintadripet,</i>	<i>Direction to continue to levy rent.</i>

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W.P.No.17565 of 2024 etc. b



			Chennai – 600 002.	
9.	Ponmanikandan Krishnaveni	7971/2020	TNHB Flat No. 4, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
10 .	A.V.Kunjamal	7971/2020	TNHB Flat No. 5, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
11 .	D.Sasikumr	7971/2020	TNHB Flat No. 6, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
12 .	S.Sheela	7971/2020	TNHB Flat No. 7, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
13 .	R.Selvi Ramamurthy	7971/2020	TNHB Flat No. 8, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
14 .	P. Velmurugan	7971/2020	TNHB Flat No. 9, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
15 .	K.L.Rajendran Sasikala	7971/2020	TNHB Flat No. 11, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
16 .	S.Bhaskar	7971/2020	TNHB Flat No. 12, Cox Square Area,	Direction to continue to levy rent.

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			<i>Chintadripet, Chennai – 600 002.</i>	
17 .	<i>S. Saravanan</i>	<i>7971/2020</i>	<i>TNHB Flat No. 13, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
18 .	<i>M. Lakshmi</i>	<i>7971/2020</i>	<i>TNHB Flat No. 14, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
19 .	<i>N.Rani</i>	<i>7971/2020</i>	<i>TNHB Flat No. 15, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
20 .	<i>R.Subash Chandra Bose</i>	<i>7971/2020</i>	<i>TNHB Flat No. 16, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
21 .	<i>A Joseph</i>	<i>7971/2020</i>	<i>TNHB Flat No. 17, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
22 .	<i>R. Gomathi Ramachandran</i>	<i>7971/2020</i>	<i>TNHB Flat No. 18, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
23 .	<i>N. Phal Gunan</i>	<i>7971/2020</i>	<i>TNHB Flat No. 22, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
24 .	<i>S.A.Udayakumari</i>	<i>7971/2020</i>	<i>TNHB Flat No. 23, Cox Square</i>	<i>Direction to continue to</i>



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			<i>Area, Chintadripet, Chennai – 600 002.</i>	<i>levy rent.</i>
25 .	<i>S.Thiagarajan</i>	<i>7971/2020</i>	<i>TNHB Flat No. 24, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
26 .	<i>B.J.Mary</i>	<i>7971/2020</i>	<i>TNHB Flat No. 27, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
27 .	<i>Dhanalakshmi</i>	<i>7971/2020</i>	<i>TNHB Flat No. 28, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
28 .	<i>K. Kumaran</i>	<i>7971/2020</i>	<i>TNHB Flat No. 29, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
29 .	<i>T.Sivakumar</i>	<i>7971/2020</i>	<i>TNHB Flat No. 30, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
30 .	<i>K.Desamuthu</i>	<i>7971/2020</i>	<i>TNHB Flat No. 31, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
31 .	<i>K.Bhaseer</i>	<i>7971/2020</i>	<i>TNHB Flat No. 32, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent.</i>
32	<i>Sundarabai</i>	<i>7971/2020</i>	<i>TNHB Flat No.</i>	<i>Direction to</i>



			34, Cox Square Area, Chintadripet, Chennai – 600 002.	continue to levy rent.
33 .	A Manjula	7971/2020	TNHB Flat No. 35, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
34 .	B.Chidambarathanu	7971/2020	TNHB Flat No. 39, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
35 .	M. Saraswathy	7971/2020	TNHB Flat No. 40, Cox Square Area, Chintadripet, Chennai – 600 002.	.Direction to continue to levy rent.
36 .	G. Jayaalamelu	7971/2020	TNHB Flat No. 41, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
37 .	G. Gandhimathi	7971/2020	TNHB Flat No. 43, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
38 .	S. Kuppabai	7971/2020	TNHB Flat No. 45, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.
39 .	K. Lakshmi	7971/2020	TNHB Flat No. 47, Cox Square Area, Chintadripet, Chennai – 600 002.	Direction to continue to levy rent.



40	<i>Sonia Rani</i>	10784/2022	<i>TNHB Flat No. 42, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent at the existing formula.</i>
41	<i>Moses Ramesh</i>	10784/2022	<i>TNHB Flat No. 37, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent at the existing formula.</i>
42	<i>Sumithra</i>	10784/2022	<i>TNHB Flat No. 46, Cox Square Area, Chintadripet, Chennai – 600 002.</i>	<i>Direction to continue to levy rent at the existing formula.</i>

36. Learned counsel appearing for the petitioners would claim special status as far as those allottees are concerned. According to the petitioners, the impugned proposals for enhancement of rent and eviction for non-payment of the enhancement made are wholly unsustainable and contrary to law.

37. The defence of the respondents is that the petitioners are liable to be evicted for non-payment of rent with specific reference made to Section 84 of the TNSHB Act and the stipulation thereunder that non-payment of rent would be visited with eviction.

38. The submissions made in regard to these allottees are more or less similar to the submissions made in the case of the allottees in Pattinapakkam and the discussion, observations and conclusions in the paragraphs supra apply in regard to the tenements in Cox Square as well. There is additionally one factor that has been raised. These petitioners have placed specific reliance on order



dated 15.06.2006 passed by the Division Bench in W.A.No.3292 of 2002 and batch and connected Review Applications⁶. In that order, my attention is drawn to paragraph 23, where the following directions have been issued in regard to the fixation of rent:

“23. In the light of undisputed facts, as narrated in the Advocate Commissioner's report, we are of the view that most of the suggestions made by the Advocate Commissioner, with regard to fixation of rent, are appropriate and acceptable. However, the report needs some change, in the light of the circumstances, shown by the counsel for the appellants/ petitioners. Therefore, the suggestions made by the Advocate Commissioner have been accepted, to the extent indicated below”:

(i) The increased rate of rent shall be fixed at Rs.2.50 per sq.ft., in respect of flats in City of Chennai, except at Cox Square Colony at Chintadripet, since, as mentioned by the Advocate Commissioner, all flats are situated in prime area in the City of Chennai.

(ii) The increased rate of rent shall be fixed at Rs.1.50 per sq.ft for Cox Square area, since it is situated adjacent to slum area and Coovum River.

c) The increased rate of rent shall be fixed at Rs.3.00 per sq.ft for all individuals houses in Chennai City.

d) The increased rate of rent shall be fixed at Rs.1.50 per sq.ft for moffusil area.”

39. The aforesaid order was passed having regard to a report filed by the Advocate Commissioner who had been appointed in that matter. No doubt, the Division Bench of this Court had been persuaded under order dated 15.06.2006

⁶Nala Sangam and another V. The State of Tamil Nadu, rep. by the Secretary to Government, Housing & Urban Development Department and others



to lay down certain rates of rent. However, it cannot be said that those rates would enure for all time to come.

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40. The prayer in the Writ Petitions in which order dated 15.06.2006 was passed was a challenge to the enhancement of rent at that point in time and it was having regard to those proceedings that the directions extracted above were issued.

41. Needless to say, the continuance of the petitioners as allottees would depend on the subsequent proceedings issued by the respondents, both for enhancement as well as for all other purposes. It is inconceivable that directions relating to fixation of rent that have been issued nearly 20 years ago should be taken to govern the occupation of the residents forever and this certainly would not have been the intention of the Court as well, in order dated 15.06.2006. The order addresses the position at that point in time, particularly as it concerns questions of fact.

42. Thus, the tenements therein and the grant of special status based on which the determination was made then cannot be said to extend forever. While the petitioners would argue that the special status would continue, the determination of rent certainly is a question of fact that can be re-visited periodically. No ground has been made specifically to show how the



enhancement is bad except to rely on the fixation of rent under order dated 15.06.2006.

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43. The Court is hence not inclined to intervene in the impugned orders of eviction as the petitioners are duty bound to have remitted the rents in time.

44. In light of the discussion as aforesaid, the Court finds no merit in the Writ Petitions pertaining to Cox Square Colony and the orders impugned in these writ petitions are confirmed.

45. Now coming to the third set of units viz., Lloyds Colony, two individuals and one welfare association have filed the Writ Petitions. In these Writ Petitions, the petitioners have challenged Circular dated 29.07.2020 and consequential demand notices.

46. There is no merit in the challenge to the impugned Circular dated 29.07.2020 which is based on the recommendations of the Special Committee for fixation of rent.

47. In fact, while disposing W.P.No.13535 of 2020⁷, vide order dated 04.01.2024, learned Judge of this Court, who was considering a prayer not to demand enhancement of rent from occupants of housing board tenements in Lloyds Road Poverty Alleviation Programme Housing Board, dismissed the Writ Petition directing the petitioners to settle the arrears within a period of two weeks from date of receipt of a copy of that order.

⁷P. Nilayagan and others V. Government of Tamil Nadu and others dated 04.01.2024
<https://www.mhc.in.gov.in/>



48. At paragraph 5 of the order, the Court records the position that most of the Government servants have vacated the building as there was a proposal to demolish the old Tamil Nadu Housing Board apartments and construct a new building.

49. The same position would apply to the present matters as well. Accordingly, the Writ Petitions filed by the Lloyds colony welfare association and Mr.Digvijayapandian stand dismissed.

50. W.P.No.15359 of 2022 has been filed by Dr.C.R.Srinivas Acharya. He has been allotted a single person quarters by the TNHB, Nandanam in 1970, in lieu of which, he was allotted quarters in Lloyds Colony, Royapettah in January, 2009. In toto, he has been a State allottee for a housing board unit for 54 years as on date and claims to be the senior most allottee of the Housing Board as on date. He challenges order dated 29.01.2020, which is an order of enhancement of rent.

51. He submits that the concept of establishment of a housing board was noble. It sought to provide accommodation at affordable cost to poor and downtrodden. While earlier the enhancement of rent was only at an affordable 5%, the State, in the recent past, has been demanding rent enhanced several hundred times. According to him, this is contrary to the object with which the



City Improvement Trust was formed. He states that his individual liberty is at stake.

52. The respondents for their part would rely on G.O.Ms.No.21, Housing and Urban Development (HB 5 (2)) Department dated 29.01.2013, G.O.Ms.No.91 Housing and Urban Development (HB 5 (2)) Department dated 04.07.2018 accepting the proposals of the TNHB for demolishing of the existing flats in various areas and providing for a re-development scheme there.

53. On 23.11.2020, a Resolution was passed (per Resolution No.5.05) specific to the demolition of flats in Lloyds Colony. This was pursuant to a Technical Committee report on the structural damage assessment of the flats in K.R.R.Nagar, Lloyds Colony, Chennai on 18.11.2021.

54. In the counter filed by the respondents, they set out the history stating that the petitioner, an Octogenarian now, was initially allotted a single person quarters in CIT Nagar, Chennai and thereafter, based on his representation in 24.12.2008, was allotted a single person quarters in Lloyds Colony as alternate accommodation. Enhancement of rent was made which was also communicated to the petitioner. Parallely, as the buildings were dilapidated and were unsafe to live in as well as for the fact that the Board had proposed re-development of the area in a wholistic manner after demolishing of the existing



structure, a communication was issued on 17.05.2022 asking the petitioner to vacate and handover peaceful possession of the quarters.

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55. The petitioner has challenged the enhancement of rent and the call for eviction of the premises. The Board justifies the enhancement on the ground of rising costs as well as the fact that the authorities are in need of a stream of revenue for maintenance of the properties. Various Government Orders have been issued over time providing for enhancement of rent and maintenance charges as with the revenue now available, the Board is unable to meet the expenditure for maintenance of the buildings.

56. As far as the structure is itself concerned, the Lloyds Colony project was conceptualized in 1961 and 19.9 acres of land were acquired. As against the original acquisition, only 14.76 acres of land now remains in their possession. 290 apartments were constructed under a Board Rental Scheme and 240 under the Tamil Nadu Rental Scheme, 46 Single Persons Quarters, 51 garages and 21 shops were constructed during the period 1963 to 1972. From 2012 – 2013 onwards, proposals are on-going for demolition of old flats and construction of new flats in a phased manner and Government Orders are being issued to bring to fruition the proposals of the State.

57. A Technical Committee had been constituted and in report dated 18.11.2021 the recommendation was that it would be far more economical to



demolish the existing structure and plan new construction rather than to retrofit the defects and repair the buildings. The authorities thus justify the impugned order as being in line with all extant regulations and also having regard to public safety.

58. The reply of the petitioner is premised on his fundamental rights and also an interim order passed by this Court on 04.01.2023 permitting the petitioner to pay the rent at the old rates. The petitioners' plea is more along the lines of a mercy petition where he relies on the fact that he has been the occupant of a unit provided by the State for the last 54 years and he does not have any income to meet even basic needs.

59. In his additional affidavit dated 05.02.2024, he adds medical ailments to the mercy plea stating that he has got chronic ailments of the eye, inguinal hernia and nasal septum deviation. His pleas are as follows:-

(1) Direct the Petitioner herein to change his religion and get converted into either Christian or Islamic Religion, who are ready to offer huge sums of money to the Petitioner herein, who is a poor Hindu SriVaishnavite Pontiff (Monk) to settle the exorbitant sum of the disputed rental arrears of the Petitioner herein;

Or (2) direct the Petitioner herein to donate one of the two kidneys to get sufficient money to settle the said exorbitant sum of the disputed rental arrears;

Or (3) Direct the Petitioner herein to seek public funding to settle the unjustifiable claim of the Respondent herein;



Or (4) Direct the Petitioner herein to undergo Euthanasia, Since, poverty is considered to be a crime and that the Petitioner herein is considered to be unfit to live in our society without sufficient money.

60. Considering the rival contentions, this Court finds no legal ground whatsoever to intervene in the matter. As already stated, the plea of the petitioner is based solely on personal exigencies and difficulties. Apart from the same, he would point out that he has been an occupant in the housing board unit from 19.08.1970 onwards.

61. The respondents have relied on a decision passed on 22.04.2019 in W.A.No.535 of 2019⁸. In that writ petition, the challenge was to enhancement of rent. The Court has made reference to the irregularities of allotments under Public quota, which is the quota under which the petitioner occupies the premises. The Bench states that such allotments constitute an arbitrary exercise of power and a chosen few had had the benefit of the same, taking advantage of public accommodation for several years. Upholding order dated 12.10.2018 passed in W.P.No.33713 of 2017, the Bench holds that there is no vested right for the occupants to continue in the premises.

62. In conclusion, the Writ Appeal was dismissed, the Court observing that the individual had enjoyed Government accommodation for many years and they are bound to pay the rent, found to be reasonable by the Court. There was also a conclusion that the rents stipulated under G.O.Ms.No.118 dated

⁸G. Ravichandran vs State of Tamil Nadu and others
<https://www.mhc.tn.gov.in/judges>



04.07.2017 would be uniformly applied to all public quota allottees without discrimination in implementing the revised rent as and when revised.

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63. The Court is bound by the Order as above and also, cannot omit to take note of legal provisions as well as ground realities. However, as this petitioner states that he has made a representation on 25.06.2024 before R1, the Secretary, Housing and Urban Development Department, pending this writ petition which has not been disposed by the concerned authority, I leave it to the authorities to dispose the representation. Let this be done within a period of four (4) weeks from date of receipt of a copy of this order, in accordance with law, after hearing the petitioner in W.P.No.15359 of 2022 and having regard to the ratio of relevant orders as well as the decisions of the Court cited in this order.

64. In the result, W.P.Nos.17565, 17596, 17593, 17574, 17581 & 17586 of 2024, 7971, 7975 of 2020, 7991 of 2021, 9438 & 21860 of 2021, 10784 of 2022 and connected Miscellaneous Petitions are dismissed. W.P.No.15359 of 2022 stands disposed and connected Miscellaneous Petitions stand closed. No costs.

25.10.2024

Index: Yes

Speaking order

Neutral Citation: Yes

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1. Tamil Nadu Housing and Urban Development Department,
Represented by the Principal Secretary,
Fort St. George,
Chennai-600 009.
2. Tamil Nadu Housing Board,
Represented by Managing Director,
CMDA Building, Koyembedu
Chennai.
3. The Executive Engineer,
Tamil Nadu Housing Board, Pattinapakkam Division,
Nandanam, Chennai-600 035.
4. The Chief Revenue Officer,
Tamil Nadu Housing Board,
CMDA Building, E and C Shop Road,
Koyambedu, Chennai-600 107.
5. The Assistant Revenue Officer
Pattinapakkam Division,
Tamilnadu Housing Board
No.485, Anna Salai, Nandanam,
Chennai-600 035.



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W.P.No.17565 of 2024 etc. bā



DR. ANITA SUMANTH, J.

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W.P.Nos.17565, 17596, 17593, 17574,
17581 & 17586 of 2024, 7971, 7975 of 2020,
7991 of 2021, 9438 & 21860 of 2021,
10784 of 2022 & 15359 of 2022

25.10.2024