



WEB COPY

W.P.No.28084 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**

and

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.28084 of 2024

and

W.M.P.No.30639 of 2024

K.Vasanthakumari

W/o.Kanagaraj

... Petitioner

vs.

1. The Chairman
Tamil Nadu Housing Board
Nandhanam, Chennai.
2. The Managing Director
Tamil Nadu Housing Board
493, Anna Salai,
Nandanam, Chennai.
3. The Executive Engineer and ADO
Tamil Nadu Housing Board
Villupuram Housing Unit
East Pondicherry Road
Maharajapuram
Villupuram - 605 002.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India

seeking a Writ of Certiorari, to call for the records in impugned order, Letter No.R4/02935A/2012 dated 03.09.2024 on the file of the 3rd respondent and quash the same.

For Petitioner : Mr.S.C.Vishwanth
For Respondents : Mr.D.Veerasekaran
Standing Counsel

ORDER

[Order of the Court was made by **M.SUNDAR J.**]

A 'communication dated 03.09.2024 bearing letter No.R4/02935A/2012 from R3' {hereinafter 'impugned communication' for the sake of brevity, convenience and clarity} has been assailed in the captioned 'Writ Petition' {hereinafter 'WP' for the sake of brevity, convenience and clarity}.

2. Mr.S.C.Vishwanth, learned counsel on record for writ petitioner and Mr.D.Veerasekaran, learned Standing Counsel for 'Tamil Nadu Housing Board' {'TNHB'} are before us.

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3. A very fair stand taken by Mr.D.Veerasekaran, learned Standing Counsel for TNHB has made the legal drill at hand fairly simple.

4. Learned Standing Counsel for TNHB submitted that a notice under Section 84(2) of the Tamil Nadu Housing Board Act, 1961 (Tamil Nadu Act No.17 of 1961) {hereinafter 'TNHB Act' for the sake of brevity, convenience and clarity} being notice dated 25.07.2024 has been issued (this is in the nature of Show Cause Notice i.e., SCN) and the writ petitioner has responded to the same by way of a response dated 13.08.2024.

5. Scanned reproduction of 25.07.2024 SCN issued under Section 84(2) of TNHB Act and the writ petitioner's response to the same dated 13.08.2024 as placed before us are as follows:



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WEB COPY SCN dated 25.07.2024:

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**Notice under Section 84(2) of Tamil Nadu Housing Board Act 1961,
(Madras Act 17 of 1961)**

VPM/R4/02935 – A/2012

Dated: 25.07.2024

Executive Engineer & Ado,
Villupuram Housing Unit,
Tamil Nadu Housing Board,
East Pondy Road Maharajapuram,
Villupuram – 605 602.

It is brought to the notice of the undersigned that the Tamil Nadu Housing Board land comprised in Survey No: 29/3C (R.S.No:159/3) measuring 1350 s.q.ft at Keelperumpakkam Village, Villupuram Taluk, & District which was acquired under Award No: 3/95 dated: 04.01.1995 and possession taken over on 30.03.1995 has been encroached by way of constructing Pucca building and thereby you have trespassed the land vested with Tamil Nadu Housing Board.

Hence, the following notice under the provision of Tamil Nadu Housing Board Act, 1961 is served on you.

Whereas, Executive Engineer Tamil Nadu Housing Board, Villupuram Housing Unit, Villupuram Competent Authority satisfied that you have encroached the said Tamil Nadu Housing Board land in survey No: Survey No: 29/3C (R.S.No:159/3) measuring 1350 s.q.ft at Keelperumpakkam Village Villupuram Taluk & District by the way of constructing pucca building.

He / She is therefore hereby requested under sub-section (2) of section 84 of the Tamil Nadu Housing Board Act, 1961 to remove the encroachment within fifteen days from the date of receipt of this notice failing which, the same will be evicted under provisions of Revenue Act.

He / She is also directed to show cause within fifteen days from the date of receipt of this notice why an order of eviction should not be passed under Section 84(1). He / She may be is advised, appear in person or by pleader before the competent authority in the office of the Tamil Nadu Housing Board, Villupuram Housing Unit at 3.00 P.M on any working day, render his written statement together with any other evidence which he / she distress to adduce in support of his /her statement. If no explanation is tendered or if his/her explanation tendered is not acceptable to the Competent Authority, final orders under sub – section (1) of said section 84 to evict him/her from the Tamil Nadu Housing Board property will be issued and he/she will summarily evicted without any further notice issued to him besides coercive action taken against him / her under section 85 of the said Act.

Issued under the signature of the Competent Authority this 25th day July 2024.

Signature of the Competent Authority.

Executive Engineer & Ado,
Villupuram Housing Unit,
Tamil Nadu Housing Board,
East Pondy Road Maharajapuram,
Villupuram – 605 602.

To:
Mrs. Vasanthakumari.



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WEB COPY **Response dated 13.08.2024:**

LPO

13.08.2024

Regd with A/D

K. Vasantha Kumari (Aged 77)
W/o A.Kanagaraj (late),
NO: 40A - College road,
Villupuram

Executive Engineer and AdO,
Villupuram Housing Unit,
Tamil Nadu Housing Board,
East Pandy road, Maharajapuram,
Villupuram - 605 602

Respected sir,

Sub: Show Cause notice issued U/s 84(2) dated 25.07.2024 - posted on 31.07.2024 and received on 01.08.2024 - Reply - Reg-

1. At outset, I deny each and part of the allegations stated by you in the show cause notice issued U/s 84(2) of the Tamil Nadu Housing Board Act, 1961 dated 06.03.2024 and you hereby put to strict proof of the same.
2. The averment that "the S.No.29/3C (R.S.No.159/3) to an extent of 1350 Sq.ft at Keelperumpakkam was acquired under Award No.3/95 dated 01.01.1995 and possession taken over on 30.03.1995, has been encroached by way of construction Pucca building and thereby you have trespassed the land vetted with Tamil Nadu Housing Board (TNHB)" are strictly denied and you hereby put to strict proof of the same.
3. I state that the above property was purchased by my husband A.Kanagaraj from one kuppan on 29th June of 1986 which was registered as document no: 2000 of 1986 at Villupuram Joint I Registrar office (Annex 1). In the sale deed it was clearly mentioned the Survey Number as S.No.159/3 and not as R.S. No.159/3.
4. I state that after such purchase, my husband A.Kanagaraj had mortgaged the above mentioned property in Co-Operative Urban Bank at Villupuram on 28.03.1987 to overcome and met out family debts. The said mortgage was released from the bank only on 31.10.2016 (Annex 2).

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5. I state that, as the above property was behind my residence, I had fenced and converted it as homemade garden for growing vegetables and fruit of day to day use. Even after the death of her husband on 11th February 1995 (Annex 3), I continued the same garden in memory of her husband. My husband died interstate leaving behind herself and my son K.Karthik as Legal heirs (Annex 4).

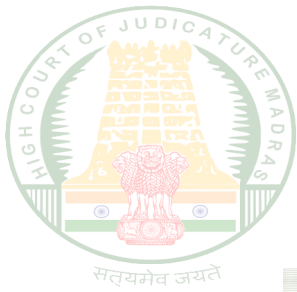
6. I further state that, on 1st week of May 2014, 1. R.Patchayappan S/o Ranganathan, 2. M.Elumalai S/o Murugesan and 3. A representative from TNHB without any prior intimations and notices, trespassed the suit property stating that, *"The Special Thasildar, Tamil Nadu Housing Board, Cuddalore had acquired the sit property under Land Acquisition Act, 1894 and after such acquisition the land was handed over to the 3rd Defendant by The Special Thasildar, Tamil Nadu Housing Board, Cuddalore and after such taken over possession, TNHB, Villupram had sold the same to I.R.Patchayappan S/o Ranganathan. 2. M.Elumalai S/o Murugesan and after such acquisition, she remaining in the land is punishable under the Law and if she remains hindrance in removing such encroachment, criminal actions will be taken"*. I was thrown to shock on hearing the above.

7. I further state that, when such things were questioned by my neighbors, the representative of TNHB advised me to approach their Office and submit the necessary form to avail the compensation as the only remedy. As no other means to go approached your office, but I was only dodged for two years. Even I was forbidden to communicate with the higher official/you..

8. I further state that, as I was forbidden to meet 'you/ higher official' about two years, I doubted about the about the land acquisition proceedings and on 30.03.2016, applied for information about Land Acquisition proceedings over the property under the Right to Information Act, 2005 (Annex 5) and in reply the Public Information Officer had given a surprising reply on 24.04.2016 stating that, "No Acquisition was done on the land" (Annex 6).

9. I further state that, In order to clarify more, the I had also rushed to your office and it was confirmed that land was never acquired by the Tamilnadu Housing Board and it was explained to her that *"the event happened on 1st week of May 2014 might be mistakenly done with regard to the boundaries as the her land is situated near the Acquired Land"*.

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10. On 22.10.2016, I had issued legal notice through my lawyer to 1.R.Patchayappan and 2. M.Elumalai to stop such illegal activities. Even though they had received the notice on 24.10.2016, they have failed to reply. Therefore, I have filed Civil suit for granting permanent injunction restraining the 1.R.Patchayappan and 2. M.Elumalai. TNHB was also Impleaded in the suit as a necessary party under O.S No.229/2016 on the file of Principal District Munsif at Villupuram.
11. I further submit that, in the said suit as none of the defendants including TNHB have failed to file the Written Statement, the Hon'ble had decreed the suit by an Exparte 'Judgment and Decree' on 03rd of July 2019 (Annex 6).
12. I submit that, after the receipt of the Judgment and Decree my Advocate had handed over the entire bundle along with the certified copy of the 'Judgment and Decree' of the suit.
13. I further submit that, to the shock on 01st of August 2024 I have received this from Tamil Nadu Housing Board. Even the notice was dated and signed on 25.07.2024, it was only posted on 31.07.2024 and I have received it only on 01.08.2024.
14. I further submit that, on the receipt of the notice, I rushed to advocate office to know content of it and only in the point of the movement I have realized that, notice for removing encroachment was issued to me and the main suit was dismissed for default on 12th of October 2023 without any notice to me after such Exparte Judgment and Decree was passed on 03rd of July 2019.
15. I further submit that, I was affected with Kidney problem and I had taken treatment for the same from February 2023 to December 2023. After that, I went to abroad and stayed with my son till June 2024. TNHB, have taken advantage of the same. I have filed restoration petition and the suit is still pending.
16. It is pertinent to mention here that, my husband was died due to heart attack on 11.02.1995 and during his lifetime no notice for acquisition was served to him and after his death no notice was received on my name and my



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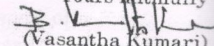
son name. It includes the payment of the compensation and taking of compensation.

17. Further as per the Annexure no. 2 it is clear that, the property was mortgaged from the year 1987 to 2016. Hence, the averments of 'land was acquired under Award No.3/95 dated 04.01.1995 and possession taken over on 30.03.1995' were nothing but the false allegations and untrue statement.

Therefore, I kindly request to drop the proceeding until the disposal of the Civil Suit and also request your good self to provide the copies of the following in advance for attending the enquiry along with my advocate

- 1). notification published under Section 4(1).
- 2). Notice issued under Section 6,
- 3). Full copy of the Award enquiry i.e. Award No.3/1995 with A Statement,
- 4). Proof of payment/deposit of the compensation (including Civil Court Deposit/Revenue Deposit)
- 5). Panchanamma certificate.

Thanking you,

Yours faithfully

(Vasantha Kumari)

Enclosures:

1. Sale deed executed in favour of A.Kanagaraj.
2. Mortgage- Release deed executed infavour Plaintiff by the Co-Operative Urban Bank at Villupuram.
3. Death Certificate of A.Kanagaraj.
4. Legal Heir Certificate of A.Kanagaraj.
5. My RTI application dated 30.03.2016.
6. Your RTI reply dated 24.04.2016.
7. 'Judgment and Decree' dated 03rd of July 2019 in O.S No.229/2016.

Note:

Consider this reply as representation under section 24(2) of the RFCTLARR Act



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6. Mr.D.Veerasekaran, learned Standing Counsel submitted that the impugned communication can be dislodged (set aside) preserving liberty of TNHB to consider the writ petitioner's response and make an order in accordance with the machinery put in place vide Section 84 of TNHB Act. This is the reason why we open this order with observation that fair stand of learned Standing Counsel for TNHB has made the legal drill on hand fairly simple.

7. The impugned communication being dislodged / set aside necessarily means that the writ petitioner's certiorari is answered in the affirmative.

8. Therefore, we make the following order:

(i) Impugned communication being communication dated 03.09.2024 bearing Letter No.R4/02935A/2012 made by R3 is set aside on the basis of the stated position of learned Standing Counsel for TNHB about which there is allusion supra;

(ii) Orders in accordance with the machinery / legal architecture of Section 84 of TNHB Act shall be made by TNHB as expeditiously as the business of official respondents



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permits;

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(iii) Orders made in the aforesaid manner shall be communicated to the writ petitioner under due acknowledgement within seven working days from the date of the order;

(iv) Coercive action, if any and if that be so, shall be subject to and depending on the order to be made in the aforesaid manner.

Captioned WP disposed of in the aforesaid manner. As we have made it clear that coercive action, if any and if that be so, will be subject to / depending on the orders to be made and served on the writ petitioner, captioned Writ Miscellaneous Petition has become otiose and the same is closed. There shall be no order as to costs.

(M.S.J.,)

(H.C.J.,)

09.07.2025

Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

mk

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To
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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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