

W.P.(MD).No.14926 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.04.2025

CORAM

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

WP.(MD)No.14926 of 2022 and

WMP.(MD).Nos.10683, 10686 and 19100 of 2022

M. Ranjani

..Petitioner

Vs

1.Principal Secretary to the Government,
Department of Housing and Urban
Development,
Government of Tamilnadu.

2.Managing Director,
Tamilnadu Housing Board,
Koyambedu, Chennai - 600 107.

3.Executive Engineer cum Administrative
Officer,
Thanjavur Housing Board Section,
Tamilnadu Housing Board,
New Housing Board Colony,
Thanjavur - 613 005.

4.Chief Revenue Officer,
Tamil Nadu Housing Board,
Koyambedu,
Chennai - 600 107.

..Respondents



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PRAYER : The writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records of the impugned order dated 26.04.2022 on the file of the 1st respondent in letter No.19183/Vi.va.2(2)/2022-1 and the consequential challan dated 30.05.2022 and quash the same as illegal, arbitrary and without jurisdiction.

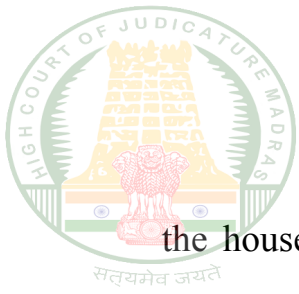
For Petitioner : Mr. Lakshmi Shankar. H

For Respondents: Mr. M. Suresh, for R1
Mr. Shaji Bino, for R2 to R4

ORDER

The petitioner challenges the impugned order dated 26.04.2022 on the file of the first respondent in Letter No.19183/Vi.Va2(2)/2022-1 and the consequential challan dated 30.05.2022.

2.The petitioner states that she had been allotted a house bearing No.B.35, New Housing Unit, Thanjavur as she was working, as a Headclerk in Mahila Court, Thanjavur. The allotment was made on 03.11.2015. Thereafter, the petitioner was transferred and posted as Sheristadar of the District Court at Nagapattinam with effect from 01.04.2021. She made a request on 07.04.2021 and 23.04.2021 seeking extension of time to vacate



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the house. The 3rd respondent also granted the extension till 30.06.2021.

The petitioner pleaded that she had undergone vascular surgery and had also been infected by corona and sought for further extension for a period of 6 months from 01.07.2021. She made out this application on 10.06.2021. She continued to reside in the said premises and sent reminders on 15.07.2021, 11.10.2021 and 31.10.2021 to the respondents. There was no response from the respondent Housing Board.

3.On 06.12.2021, she entered into a lease agreement for the property at No.11, 2nd street, Kulanthi Ammal Nagar, Pudukottai Road, Thanjavur. Consequent to getting a new accommodation, she vacated the Housing Board flat on 15.12.2021. She states she had paid Electricity Consumption charges and property tax till 31.12.2021. Enclosing these records, she gave a letter on 15.12.2021 calling upon the respondent to fix the rent from 01.07.2021 to 15.12.2021. She states that the 3rd respondent did not receive the key for the premises, on the ground, intimation of extension had not yet been informed by the respondents 1 and 2.

4.Four months after she had vacated the premises, she received the impugned order on 26.04.2022. As per the impugned order, her request for



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extension of time was rejected and she was directed to pay penal rent from 01.07.2021 till the date of eviction from the property. Challenging the same, the present writ petition.

5. On service of summons, the 4th respondent has filed a counter. The counter admits that the petitioner was allotted the flat in No.35, New Housing Unit, Thanjavur, as per the Tamil Nadu Government Rental Housing Scheme on 03.11.2015. It also accepts that extension of time was granted by 3 months on her request till 30.06.2021. It states that her further request for extension from 01.07.2021 was rejected only on 26.04.2022. The 4th respondent states that there is no provision in the allotment rules for extension of time beyond 3 months and if such extension is granted, Government servants, who are waiting for allotment, will not be in a position to occupy the premises made ready for their usage. The counter further pleads that the first respondent had directed the 2nd respondent to collect penal interest from 01.07.2021 until the date of handing over of possession. It is only on that basis that the petitioner sought for penal interest till handing over of possession. It is further pointed out that on



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11.06.2022, after the impugned order had been passed, the petitioner was called upon to pay the penal rent of Rs.2,19,312/- till 30.06.2022. He alleges that the petitioner has not bothered to make a payment and hand over the possession of the property.

6.It is further alleged that whenever an apartment is allotted to the Government Servant by the Competent authority, the apartment is handed over to the allottee by the concerned Assistant Engineer and handing over/ Taken Over Report is obtained after affixing their signatures. He pleads that the similar procedure has to be followed, while, handing over the possession by the Government servant also. As this has not been done by the petitioner, it reflects the recalcitrant attitude and scant regard shown by the petitioner towards the public property owned by the Government. In addition, Additional typed set has been filed stating that as long as this writ petition is pending, the request of the petitioner to accept the handing over of possession on 15.12.2021 would not be considered.

7.I have carefully considered the submissions of both sides.

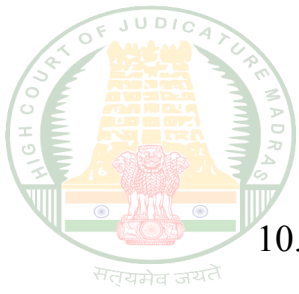


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8. There is no dispute that till 30.06.2021, the petitioner was entitled to be in occupation of the premises. The petitioner had sought for extension of time to stay in the premises till she found an alternative accommodation. This request was made on account of the fact that the petitioner was afflicted with corona and had also undergone vascular surgery.

9. In the meantime, she had made efforts and had found an alternate accommodation in Thanjavur itself. This is substantiated by the receipt that has been produced by the petitioner at page 42 of the typed set of papers. It is a receipt for the advance amount received. This alone would not have persuaded this Court to accept the submission of the writ petitioner. However, the letter dated 11.01.2022 in letter No.aa.va.bi.5/49253/2011 shows that the respondents had addressed the letter to the new address furnished by the writ petitioner. This shows that the petitioner had vacated the premises and moved to the new premises at Pudukottai Road in Thanjavur and the respondents were aware of the same.



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10.The period that the petitioner sought for extension was between 01.07.2021 to 31.12.2021. The rejection order itself has been passed 4 months, after the period sought for in the extension letter, had expired.

11.The petitioner is liable to pay rents as long as she is in occupation of the premises. Rent cannot be demanded for the period that the petitioner was not in occupation of the premises. Though the petitioner had sent several representations calling upon the respondents to take over possession, the respondents did not take over possession on the ground that the request for extension was pending. Such a stand is absolutely confusing. Firstly, extension was not granted. Secondly, the respondents took a stand till orders are passed on the request for extension, they will not take over possession of the property.

12.At this stage, I should notice of the series of correspondences initiated by the petitioner from 18.12.2021 to 15.05.2022. The petitioner had stated she had vacated the premises and was seeking the respondents to fix the rent for the period 01.07.2022 to 15.12.2022. By not having passed



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orders on the representations, the respondents cannot take advantage of the same.

13.It is admitted by Mr.Lakshmi Shankar that the petitioner was in occupation of the property from July 2021 till December 2021. Therefore, the petitioner would be liable to pay rent for this period. The monthly rental amount of Rs.7,815/- should be paid to the respondents together with interest at the rate of 18% p.a. within a period of two weeks from the date of uploading of the order on the website of this Court. As the mistake lay on, the respondent is not receiving the key from the petitioner, the penalty imposed on the petitioner cannot be sustained.

14.Accordingly, I pass the following orders;

- (i) the impugned order is quashed and
- (ii) the petitioner shall pay a sum of Rs.46,890/- together with interest at the rate of 18% p.a. for the abovesaid period i.e. from July 2021 till December 2021.



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(iii) In case, the amount is not paid within a period of two weeks

from the date of uploading of this Order, the petitioner would be liable to pay the interest at 18% from 01.01.2022 till the date of payment.

(iv) This writ petition is allowed on the above terms. No costs.

Consequently, connected miscellaneous petitions are closed.

07.04.2025

Index : Yes/No

Internet: Yes/No

mrp

To

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Development, Government of Tamilnadu.

2. Managing Director,
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3. Executive Engineer cum Administrative
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V. LAKSHMINARAYANAN, J.

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