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WP.No.40742/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP.No.40742/2016

[Hybrid Mode]

Anna Nagar Club
represented by its
Secretary E.Ravichandran
having office at FACT Pavilion
W-97A, Second Avenue
Anna Nagar, Chennai 600 040.

.. Petitioner

Vs.

The Executive Engineer and
Adminstrative Officer
Anna Nagar Division
Tamil Nadu Housing Board
Thirumangalam Shopping Complex
Thirumangalam, Chennai 600 101.

.. Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records relating to the proceedings of the respondent in Letter No.ANA.10/3653/88 dated 26.10.2016 and quash the same.

For Petitioner : Mr. J.Pothiraj
For Respondent : Mr.R.Bharath Kumar
Standing Counsel



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ORDER

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- (1) The Letter dated 26.10.2016 issued by the respondent to the petitioner is under challenge in the present writ petition.
- (2) The letter is nothing but requesting the petitioner-Club for payment of rental arrears. The letter/explanation submitted by the petitioner on 14.10.2016 was scrutinised legally and the respondent replied through the impugned letter dated 26.10.2016 stating that the petitioner-Club is not paying the rent regularly. The demand of rental arrears made was based on an authenticated working sheet. Therefore, the demand is not exorbitant. The delay in issuing the Demand Notice is due to administrative reasons. The purpose of allotment and the rules and conditions are well established in the Allotment Order itself. Therefore, the respondent has stated that defaults cannot be regularised. The mere letter to the petitioner for payment of rental arrears is under challenge in the present writ petition.
- (3) The petitioner-Club states that the Club is a social and cultural Association registered under the Societies Registration Act 21 of 1860. The petitioner-Club is functioning in the premises belongs to



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the Tamil Nadu Housing Board ["TNHB" for brevity] and paying the rent. An extent of 7 grounds were allotted in favour of the petitioner for running the Club. The petitioner states that to upgrade the basic facilities, the petitioner-Club approached the Chairman, TNHB, to issue a No Objection Certificate to start a permit room, for obtaining necessary license from the Commissioner of Prohibition and Excise, Chepauk, Chennai. However, the same was not considered by the TNHB. Whereas, the Police Department has issued a No Objection Certificate for starting a Permit Room/Bar in the petitioner-Club premises. The application submitted by the petitioner-Club in this regard is pending and yet to be considered by the respondent.

- (4) The petitioner-Club filed WP.No.2472/2016 seeking for a direction to consider its representation and this Court, vide order dated 21.03.2016, directed the respondent herein to consider the said representation for grant of No Objection Certificate for the purpose of obtaining Bar License. The petitioner appeared before the respondent-Board who in turn passed an order in proceedings dated 09.06.2016 directing the petitioner to pay a sum of Rs.52,25,960/-



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as on June 2016 towards arrears of rent. The petitioner states that they had paid a substantial sum of Rs.20 lakhs by way of arrears of rent. But, still the respondent-Board is demanding the arrears of rent. In these circumstances, the petitioner-Club is constrained to move the present writ petition,

- (5) This Court is of the considered opinion that the subject property belongs to TNHB. If at all the property is earmarked for recreational purpose, then the purpose and object of the TNHB Rules alone is to be followed and it is not as if the petitioner-Club can deviate the purpose and object of the TNHB Rules based on which the area is earmarked for recreational purposes. Any violations in this regard can never be accepted nor the TNHB is empowered to grant any permission beyond the scheme under which the land was earmarked and also with reference to the terms and conditions of the allotment. Thus, the petitioner-Club cannot seek any permission beyond the scope of the TNHB Rules and Regulations and also in violation of the bye-laws of the petitioner's Society.
- (6) Admittedly, the petitioner-Club is a registered Society under the



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Societies Registration Act. The bye-laws of the petitioner-Club is approved by the competent authority under the provisions of the Societies Registration Act. Thus, in the event of any violation, the competent authority of the Registration Department has to initiate appropriate action for such violations and for cancellation of registration. Equally, if the allotment rules of the TNHB are violated, then the Housing Board is also empowered to initiate action for eviction of the petitioner-Club from the premises. It is not as if the petitioner-Club can get allotment from TNHB and thereafter, utilise the land as per their own whims and fancies and in such an event, the authorities competent are bound to interfere and initiate all appropriate actions in the manner known to law.

(7) The petitioner-Club themselves had stated that the TNHB has not granted No Objection Certificate for running the Bar/Room. In the event of no provision under the TNHB Rules for grant of any such No Objection Certificate for running the Bar/Room, they cannot give any such No Objection Certificate at all. Therefore, the actions of the TNHB can never be faulted in this regard.

(8) The TNHB has frequently requesting and raising demand for



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payment of arrears of rent. However, till today, the petitioner-Club has not cleared the arrears of rent. This apart, the petitioner-Club is in occupation of 7 grounds of land in Anna Nagar prime locality and paying a rent of Rs.20,000/- per month. Even the rent fixed is in commensuration with the actual market rental value in that locality is to be looked into by the competent authorities. The TNHB is owned by the Government of Tamil Nadu and any loss to the Board, is the loss to the revenue of the State. Thus, the competent authorities of the TNHB has to look into the manner in which the rent is fixed and if it is not properly fixed, they have to initiate all steps to fix the fair rent in commensuration with the actual market rental value prevailing in that locality.

- (9) As far as the impugned letter is concerned, the said letter cannot be construed as a cause for the purpose of filing this writ petition. The respondent-Board has demanded payment of rental arrears and the representations submitted by the petitioner were considered and the petitioner-Club is treated as a defaulter and therefore, is liable for penal action. This Court is of the opinion that the petitioner being a Club, are bound to follow the bye-laws approved by the competent



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authority and also abide by the terms and conditions of the allotment issued by the TNHB. In the event of any violation, the Board is competent to initiate action for eviction. This being the factum established, the respondent-Board is directed to ascertain the arrears of rent as of now and further consider whether the rent fixed is in commensuration with the actual market rental value prevailing in that locality or not. All appropriate actions to be initiated to fix the fair rent and collect the arrears of rent from the petitioner-Club and in the event of failure, all appropriate actions are to be initiated including eviction of the petitioner-Club from the premises.

- (10) As far as the activities of the petitioner-Club are concerned, this Court has elaborately considered the issues in respect of the societies registered under the Societies Registration Act. This Court, in similar circumstances, vide order dated 23.12.2021, in ***WP.No.30803/2012 [The Kancheepuram Reading Room and Tennis Club represented by its Secretary Vs. The Director General of Police, Police Head Quarters, Mylapore, Chennai-4 and Others]***, has passed the following directions:-



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"(1) The relief, as such, sought for in the present petition stands rejected.

(2) The first respondent~Director General of Police is directed to constitute trained Special Squads in each District and in Cities across the State of Tamil Nadu under the leadership of the respective Superintendents of Police and the respective Commissioners of Police for the purpose of conducting inspections in Social Clubs, Associations, Spa, Recreation Clubs, Massage Centres etc., and initiate all appropriate actions, in the event of identifying any commission of offence or illegality.

(3) On initiation of any such action, against any such Organisations, Social Clubs, Associations etc., the actions initiated shall be communicated to the Competent Jurisdictional Authorities under the Tamil Nadu Societies Registration Act, along with the details of allegations and action taken, enabling those Authorities to initiate further actions under the provisions of the Tamil Nadu Societies Registration Act, 1975 and Rules or under the relevant provisions of law if the registration of Associations and Clubs



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are done under different Statutes.

(4) The first respondent~Director General of Police is directed to issue all necessary instructions/guidelines to the Subordinate Police Authorities to develop an effective coordination with the Registration Department and other connected Government Departments, so as to ensure effective and efficient implementation of the Statutes for the purpose of prosecuting the offenders dealing with the illegalities simultaneously under various relevant Statutes.

(5) The first respondent~Director General of Police is directed to issue circulars/instructions to all Police Officials across the State of Tamil Nadu and communicate the copy of such circulars/instructions to the Registration Department and other connected Government Departments and to the local bodies (Corporations, Municipalities and Panchayats) for initiation of appropriate actions against the licenses granted for such establishments by the local bodies as per the terms and conditions and under the provisions of law.



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(6) *The above said exercise of issuing circulars/instructions is directed to be done by the first respondent~Director General of Police, within a period of four weeks from the date of receipt of a copy of this order."*

(11) In the instant case, in the event of any violation or otherwise, the competent authorities of the Registration Department is empowered to initiate action for cancellation of registration of the petitioner-Club and it is needless to state that the jurisdictional police authorities are also empowered to monitor the activities of the petitioner-Club and if any irregularity or illegality is identified, then immediate actions are to be initiated in the manner known to law. In the event of initiation of any action, the intimation must be provided to the Registration Department as well as TNHB for all appropriate actions.

(12) In the result, the writ petition stands **disposed of** and the respondent-TNHB is directed to complete the exercise of fixing the fair rent and calculation of arrears of rent etc., within a period of **thirty days** from the date of receipt of a copy of this order and communicate the same to the petitioner-Club. The petitioner-Club



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is directed to settle the arrears of rent to the respondent-Board within period of **four weeks** from the date of receipt of such order from the Tamil Nadu Housing Board and in the event of failure, the respondent is directed to initiate all appropriate actions to evict the petitioner-Club from the premises and recover all dues, compensations and penalty etc., by following the procedures as contemplated under law. No costs.

19.01.2022

AP

Index : Yes
Internet : Yes

To

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