

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE S. MANIKUMAR

Contempt Petition No.100 of 2015

D.Premakumari ... Petitioner

Versus

1. Mr.Ravichandran,
The Tahsildar,
Sholinganallur,
Kancheepuram District.
2. Mr.Marimuthu Pandian,
The Assistant Commissioner,
Urban Land Tax,
Alandur, 153, Karaneegar Street,
Adambakkam, Chennai 600 088. ... Respondents

Petition under Sections 11 of the Contempt of Courts Act, 70/71 to punish the respondent for having committed contempt of Court for disobeying the order, dated 19.11.2013 in W.P.No.29832 of 2013.

For Petitioner : Mr.T.K.S.Bharathy Anandraj

For Respondents: Mr.I.Arokiayasamy,
Government Advocate

ORDER

In W.P.No.29832 of 2013, the petitioner has contended that she has purchased the land in Nanmangalam Village, Sholinganallur, Kancheepuram District, comprised in S.No.295/2B/2A bearing Plot Nos.2 and 3, having a total extent of 3818 sq.ft., vide registered sale deed bearing

Doc.No.366 of 1989 on the file of the Sub Registrar, Pallavaram. Since then, she has been in continuous possession and enjoyment of the property. The abovesaid lands were under Tamilnadu Urban Land (Ceiling and Regulation) Act, 1978. At the time, of purchase, she was not aware, that the lands were covered under the Land Ceiling proceedings. However, the Government have issued G.O.No.56 dated 21.02.2011, protecting the interests of the innocent buyers, and in so far as the petitioner's land, measuring an of 3818 sq.ft. in S.No.296/2B2A, is concerned, the Government have determined the regularisation charges to be paid by the petitioner at Rs.1,77,350/-.

2. Accordingly, the petitioner has deposited the amount in Government account. Thereafter, she made a representation dated 26.09.2013, to the Tahsildar, Sholinganallur, Chennai, the 1st respondent, to issue patta in her favour. As the said representation remained unanswered, she has sought for a writ of mandamus, directing the 1st respondent to comply with G.O.No.56 dated 21.2.2011 and also to comply with the letter sent by the 2nd respondent to the first respondent in Na.Ka. B/190-2011 dated 19.5.2011 and to issue patta in her favour, pertaining to Survey No.296/2B2A of an extent of 3818 sq.ft. in Nanmangalam Village Sholinganallur

respondent to Survey the lands comprised in Survey No.296/2B2A of an extent of 3818 sq.ft. in Namangalam Village, Sholinganallur, Kancheepuram District with the help of a competent surveyor in Field measurements Village map and other relevant documents pertaining to that of Namangalam Village Sholinganallur and further direct them to mark the land laying corner stones and to file a report within a stipulated period and also for a further direction to the respondents to dispose of her representation dated 26.09.2013.

3. In W.P.No.30889 of 2013, it is the case of the petitioner therein that by way of a registered sale deed dated 12.09.1990, he has purchased the property bearing S.No.93(part) and now S.No.93/1A, measuring about 28 cents in the village of Kowl Bazaar, Tambaram Taluk. The said lands were also covered under Tamilnadu Urban Land (Ceiling and Regulation) Act, 1978. In respect of the abovesaid lands, the Government have issued G.O.No.56, ULC 1(2) Department, dated 26.09.2008 regularising the lands purchased by innocent buyers.

4. It is the further case of the petitioner therein that subsequently, the Government have issued G.O.No.174, ULC 1(2) Department dated 20.05.2011, directing the petitioner to pay a sum of Rs.8,50,740/-, as regularisation

fee. He has remitted the said amount in Government Treasury, Tambaram on 06.07.2011. Thereafter, he made a representation on 15.09.2012 to grant patta in his name. But the request of the petitioner, for grant of patta has been turned down by the proceedings in R.C.No.8404/2011/E2 dated 12.01.2012 by the Commissioner, Land Ceiling and Urban Land Department, Chennai 2, which has necessitated the petitioner to file the present writ of certiorarified mandamus, calling for the records in Na.Ka.No. 8404/2011/E2 dt 12.1.2012 on the file of the 2nd respondent and to quash the said letter, as it is vitiated by an error on the face of the record and to issue a direction to the respondents to issue/transfer patta in respect of the petitioners land measuring 28 cents in Survey No. 93/1A situated in Kowl Bazar Village Alandur Sub Taluk, Tambaram Taluk, Kancheepuram District.

5. In W.P.No.30890 of 2013, it is the contention that by way of a registered sale deed, dated 12.09.1990, the petitioner therein has purchased the property bearing S.No.93(part) and now S.No.93/1B, measuring about 28 cents in the village of Kowl Bazaar, Tambaram Taluk. The said lands were also covered under the Tamilnadu Urban Land (Ceiling and Regulation) Act, 1978. In respect of the abovesaid lands, the Government have issued G.O.No.56, ULC

lands purchased by innocent buyers. It is the further case of the petitioner that subsequently, the Government have issued G.O.No.174, ULC 1(2) Department dated 20.05.2011, directing the petitioner to pay a sum of Rs.8,50,740/-, as regularisation fee. He has remitted the said amount in Government Treasury, Tambaram on 06.07.2011. Thereafter, he made a representation on 15.09.2012 to grant patta in his name. But the request of the petitioner, for grant of patta has been turned down vide proceedings in R.C.No.8404/2011/E2 dated 12.01.2012 by the Commissioner, Land Ceiling and Urban Land Department, Chennai 2, which necessitated the petitioner to file a writ of certiorarified mandamus, calling for the records in Na. Ka. No. 8404/2011/E2 dt 12.1.2012 on the file of the 2nd respondent and to quash the said letter, as it is vitiated by an error on the face of the record and to issue a direction to the respondents to issue/transfer patta in respect of the petitioners land measuring 28 cents in Survey No. 93/1B situated in Kowl Bazar Village Alandur Sub Taluk, Tambaram Taluk, Kancheepuram District.

6. At Paragraphs 6, 7 and 8 of the common order, in W.P.Nos.29832, 30889 and 30890 of 2013, dated 19.11.2013, this Court has ordered as follows:

"6. On 18.11.2013, when writ petitions viz., W.P.Nos.30889 and 30890 of 2013, came up for admission, this Court, has passed the following

orders:

"Material on record discloses that the petitioners have purchased lands in S.Nos.93/1 and 93/1A, respectively, each measuring an extent of 12208 sq.feet from one Mr.R.Vasudevan and Mr.A.T.Narasimhan, by way of registered sale deeds, both dated 12.11.1990. Lateron, they came to know that the said lands were covered, under the Land Ceiling Act. The Government of Tamilnadu, have issued G.O.No.565, ULC 1(2) Department dated 26.09.2008, for regularisation of purchase of lands, by innocent buyers.

2. Apprehending that in the process of regularisation, there was a likelihood of huge loss to the Government and referring to Government letter No.4056/ULC1(1)/2011, dated 05.01.2012, the Director, Urban Land Ceiling and Urban Land Tax, Chennai, vide letter of even No.8404/2011/E2 dated 06.01.2012 and 12.01.2012, respectively, have issued directions to all the District Collectors of Chennai, Tiruvallur, Kancheepuram, Coimbatore, Tirunelveli, Madurai, Trichy and Salem respectively, not to effect any change of patta, until the Government have issued further orders.

3. Perusal of the letters dated 06.01.2012 and 12.01.2012, respectively, shows that reference has been made only to the Government order G.O.No.565, ULC 1(2) Department dated 26.09.2008, by which, the Government have issued certain directions, in the matter of regularisation of lands purchased by innocent

buyers. Perusal of G.O.No.565, ULC 1(2) Department dated 26.09.2008, shows that the

Government have determined the amount to be paid by the innocent buyers, of lands covered under the Urban Land Ceiling proceedings in certain places in Chennai and for Tiruvallur, Kancheepuram, Coimbatore, Tirunelveli, Madurai, Trichy and Salem Districts. However, material on record discloses that subsequently, taking note of G.O.No.565, ULC 1(2) Department dated 26.09.2008, the Government have issued another order in G.O.No.174, ULC 1(2) Department dated 20.05.2011, determining the extent and the amount to be paid, by the innocent buyers.

4. Perusal of G.O.No.174, ULC 1(2) Department dated 20.05.2011, shows that the abovesaid Government order has been issued on the basis of the recommendations of the Land Commissioner, Urban Land Ceiling and Urban Land Tax, Chennai and the amount seemed to have been fixed as per G.O.No.565, ULC 1(2) Department dated 26.09.2008. For better appreciation, this Court deems it fit to extract paragraph No.3 of the Government order in G.O.No.174, ULC 1(2) Department dated 20.05.2011.

"3. நகர்புற நில உச்சவரம்பு மற்றும் நகர்புற நிலவரி இயக்குநரின் பரிந்துரை சம்மந்தப்பட்ட ஆவணங்களுடன் அரசு கவனமாக ஆய்வு செய்து, அவரது பரிந்துரையை ஏற்கலாம் எனக் கருதி கிழே பட்டியலிடப்பட்டுள்ள அறியாக்கிரையம் பெற்ற 21 நபர்களின் நிலங்களை மேலே ஒன்றில் படிக்கப்பட்ட அரசாணையின்படி அவர்களுடைய நிலங்களுக்கு நிர்ணயம் செய்யப்பட்ட தொகையினை 30 தினங்களுக்குள் வசூலித்துக் கொண்டு அறியாக்கிரையமாக வரன்முறைப்படுத்தலாம் என முடிவ

<https://hcservices.ecourts.gov.in/hcservices> செய்து அரசு அவ்வாறே ஆணையிடுகிறது."

The names of 21 innocent buyers have been

included in G.O.No.174, ULC 1(2) Department dated 20.05.2011 and that the name of the writ petitioner is at Sl.Nos.5 and 6. Thus reading of paragraph No.3 stated supra, shows that the valuation seem to have been done as per G.O.No.565, ULC 1(2) Department dated 26.09.2008.

5. When the Government, had already taken note of G.O.No.565, ULC 1(2) Department dated 26.09.2008, and thereafter accepted the recommendations of the Land Commissioner, Urban Land Ceiling and Urban Land Tax, Chennai, and consequently issued G.O.No.174, ULC 1(2) Department dated 20.05.2011, regularising the purchase made by innocent buyers, the Land Commissioner, Urban Land Ceiling and Urban Land Tax, Chennai, has failed to take note of the subsequent G.O.No.174, ULC 1(2) Department dated 20.05.2011.

6. Though in similar writ petitions in W.P.Nos.29832 of 2013 etc., learned Additional Government Pleader was directed to get instructions, as to how the Government, having collected the entire value from the innocent buyers, refuse to regularise the purchase based on G.O.No.565, ULC 1(2) Department dated 26.09.2008, when subsequently, the Government have issued revised orders in G.O.No.174, ULC 1(2) Department dated 20.05.2011, it is represented that the Government have not furnished any instructions to the learned Additional Government Pleader, so far. Therefore, this Court is constrained to direct the Deputy Secretary to the Government, Department of Revenue, Urban Land Ceiling to appear before this

Court on 19.11.2013 or depute any other officer alongwith the files pertaining to G.O.No.174, ULC 1(2) Department dated 20.05.2011, and explain as to whether, the Government having issued G.O.No.174, ULC 1(2) Department dated 20.05.2011 and collected the entire value from the innocent buyers, can still harp on G.O.No.565, ULC 1(2) Department dated 26.09.2008.

7. Post on 19.11.2013."

7. On this day, when the writ petitions came up for further hearing, Mr.Ezhilarasu, Deputy Secretary, Revenue Department, Government of Tamilnadu, submitted that 4267 persons, have submitted their applications for grant of patta, claiming themselves to be innocent buyers of the lands covered under the Land Ceiling proceedings, and out of that, 97 of them have paid the regularisation fee, in terms of the Government orders stated supra. Now, the Deputy Secretary to the Government, has further submitted that in respect of the abovesaid 97 persons, who have remitted the regularisation charges, the Government have decided to grant patta for the lands stated supra. Submission of Mr.Ezhilarasu, Deputy Secretary, Revenue Department, Government of Tamilnadu, is placed on record. Mr.R.Vijayakumar, learned Additional Government Pleader, also reiterated the same.

8. In view of the above, the orders impugned in W.P.Nos.30889 and 30890 of 2013, are set aside. Consequent to the submission made across the bar by the Deputy Secretary, Revenue Department, Government of Tamilnadu, a direction is issued to the Tahsildar (Revenue), Alandur,

Chennai, the third respondent in both the writ petitions to grant patta in respect of the properties of the petitioners in the abovesaid writ petitions, details of which, are given in this tabular column.

<u>Sl.No.</u>	<u>Name</u>	<u>Survey No.</u>	<u>Extent of land</u>
1	S.A.Rajan	93/1	12208 sq.ft
2.	R.Ashok	93/1A	12208 sq.ft

7. At Paragraphs 9 and 10, this Court in W.P.Nos.29832, 30889 and 30890 of 2013, dated 19.11.2013, has ordered as follows:

"9. Insofar as W.P.No.29832 of 2013, is concerned, mandamus as sought for, is issued directing the Tahsildar, Sholinganallur, Chennai to survey the lands comprised in Survey No.296/2B2A, measuring an extent of 3818 sq.ft and issue patta.

10. As grant of patta requires survey of the lands, earmarking the boundaries, the Tahsildars concerned with the help of Surveyor, shall measure the properties, demarcate the same and issue pattas to the petitioners, within a period of three months from the date of receipt of a copy of this order."

8. In this contempt petition, the petitioner has contended that despite the common order in W.P.Nos.29832, 30889 and 30890 of 2013, dated 19.11.2013, the Tahsildar, Sholinganallur, 1st respondent herein, vide proceedings in Na.Ka.No.12661/2013, dated 17.07.2014, has informed the petitioner that since the subject land has been registered

as Tamil Nadu Government (Urban Land Ceiling), Patta cannot be issued. It is her further case that since the 1st respondent has willfully disobeyed the orders of this Court in W.P.Nos.29832, 30889 and 30890 of 2013, dated 19.11.2013, the present contempt petition has been filed.

9. When the matter came up for hearing on 28.01.2015, statutory note was issued, returnable in four weeks. Tahsildar, currently working in Sholinganallur, Kancheepuram District, appeared. On 10.03.2015, it was informed that Mr.Ravichandran, who passed the order, dated 17.07.2014, holding that the patta cannot be issued, has been transferred as Special Tahsildar (Flying Squad), Kancheepuram. Therefore, his appearance was not dispensed with.

10. Inviting the attention of the Government, to the positive directions to grant patta and taking note of Ref.No.2, in the proceedings, dated 17.07.2014, where, the Tahsildar, has referred to the writ petition numbers, Mr.I.Arokiyasamy, learned Government Advocate, was directed to file a counter affidavit, as to how, the Tahsildar, could say that patta cannot be issued, inspite of the specific directions of this Court.

11. Mr.D.Ravichandran, Special Tahsildar, Flying Squad, Kanchipuram District, appeared. In his counter affidavit, dated 13.03.2015, he has stated that in G.O.(Ms) No.56, Revenue, Urban Land Ceiling 1(2) Department, dated 21.02.2011, the Government have ordered for regularisation of lands, purchased by innocent buyer category, from the lands acquired under the Tamil Nadu Urban Land Ceiling Act, 1978. The Government have issued instructions in Letter No.4056/ULC, dated 01.11.2011 and 05.01.2012. In furtherance of the same, the Director of Urban Land Ceiling and Urban Land Tax, Chennai, in Ref.No.8404/2011/E2, dated 12.01.2012, had given instructions that patta transfer need not be effected in request of cases, for which, orders were issued.

12. In the counter affidavit, the Special Tahsildar, Flying Squad, Kanchipuram District, has also stated that he was relieved from the post of the Tahsildar, Sholinganallur, on 02.10.2014. He has not received any instructions from the Government to issue any patta, till he was relieved from his Office on 02.10.2014. He has further submitted that the land has been shown as, "ULC Government of Tamil Nadu" in village accounts.

13. Subsequently, the Commissioner, Urban Land Ceiling and Urban Land Tax, Chennai, vide proceedings in

R.C.No.8404/2011/E2, dated 06.01.2015, has issued instructions to the Officers, to issue patta. The said Commissioner's proceedings, were based on the Government Letter No.4506/ULC 1(2)/2011-29, dated 03.12.2014. When directions have been issued by this Court, in the year 2013 and orders made in the writ petitions, were acknowledged, the Tahsildar, instead of complying with the directions of this Court, seemed to have waited for the instructions from the Government.

14. The Special Tahsildar, Flying Squad, Kanchipuram District, has contended that he is a sincere and honest officer and blindly followed the Government instructions. Though he has sought for apology, this Court is not inclined to accept the same, for the reason that the Special Tahsildar, Flying Squad, Kanchipuram District (formerly the Tahsildar, Sholinganallur, Kancheepuram District), was very much a party to the common order in W.P.Nos.29832, 30889 and 30890 of 2013, dated 19.11.2013.

15. Though a positive direction, dated 19.11.2013, has been issued by this Court, directing the Tahsildar, Sholinganallur, Chennai to survey the lands comprised in Survey No.296/2B2A, measuring an extent of 3818 sq.ft and issue patta, the Special Tahsildar, Flying Squad, Kanchipuram District (formerly the Tahsildar,

Sholinganallur, Kancheepuram District), has totally ignored the directions of this Court and now come up with a defence in the contempt petition, stating that he has blindly followed the Government instructions. In his proceedings, dated 17.07.2014, refusing to change the patta, in Ref No.2, he has also given the writ petition numbers, thus making it clear that he is aware of this Court's order.

16. The Writ Petitions were disposed of on 19.11.2013. Copy of the order was received on 10.01.2014. On 24.02.2014, the Special Tahsildar, Flying Squad, Kanchipuram District (formerly the Tahsildar, Sholinganallur, Kancheepuram District), has directed the Surveyor to survey and demarcate the land and submit the proposals for patta. But by showing a scant regard to the specific directions given by this Court, to issue patta, the Special Tahsildar, Flying Squad, Kanchipuram District (formerly the Tahsildar, Sholinganallur, Kancheepuram District), has refused to issue patta. From the above, it is evident that for him, departmental instructions are more important, than the Court's directions and therefore, has contended that he has blindly followed the Government Orders, which were issued, prior to the disposal of the writ petition, dated 19.11.2013. He cannot harp on the Government instructions, which were considered by this Court. Relevant paragraph of the common order, already extracted, makes it clear that the Government have already

decided to issue patta to 97 persons.

17. While passing the common order, dated 19.11.2013, this Court has considered the subsequent G.O.No.174, ULC 1 (2) Department dated 20.05.2011 also. Whereas, the Special Tahsildar, Flying Squad, Kanchipuram District (formerly the Tahsildar, Sholinganallur, Kancheepuram District), has referred to G.O.No.56, ULC 1(2) Department, dated 26.09.2008 and the subsequent instructions issued upto 12.01.2012 and vide proceedings, dated 17.07.2014, has refused to change the patta. There is nothing in the refusal order, dated 17.07.2014, to indicate that he has considered the contents of the common order made in W.P.Nos.29832, 30889 and 30890 of 2013, dated 19.11.2013, except to state that on receipt of the said order, property was surveyed on 04.03.2014, in the presence of the petitioner. Having surveyed the land, as per the directions of this Court, it is not open to the Tahsildar, Flying Squad, to contend that he has blindly followed the Government's Instructions.

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18. The Divisional Deputy Tahsildar, Sholinganallur and the Tahsildar, Sholinganallur, have acknowledged the notice, dated 21.08.2014 of the petitioner, in which, she had indicated the contumacious conduct of the Special Tahsildar, Flying Squad, Kanchipuram District (formerly the Tahsildar, Sholinganallur, Kancheepuram District), in

refusing to issue patta. Officers, who have acknowledged the letter, dated 21.08.2014, have not corrected the earlier order, dated 17.07.2014, though the common order of this Court made in W.P.Nos.29832, 30889 and 30890 of 2013, dated 19.11.2013, was very much available in their files. They cannot feign ignorance of the directions of this Court.

19. Only after the receipt of the notice, in the contempt petition, instructions have been given by the Assistant Director, Urban Land Tax, Alandur Zone, Adambakkam, Chennai, in Rc.No.B/1/2014, dated Nil.02.2015, to the Tahsildar, Sholinganallur, to comply with the orders of this Court and thereafter, patta has been issued. Sufficient materials are available to hold that Mr.Ravichandran, Special Tahsildar, Flying Squad, Kanchipuram District (formerly the Tahsildar, Sholinganallur, Kancheepuram District) and the successive officers, have failed to act, as per the directions of this Court. The practice of complying with the directions of this Court, only after the receipt of contempt notice and then, seek for apology, cannot be approved. Intention to flout the order is apparent on the face of record, when the Tahsildar is stated that patta cannot be issued. Though patta has been issued to the petitioner subsequently, this Court deems it fit to impose a cost of Rs.25,000/- (Rupees twenty five thousand only), to be paid by the Department to the petitioner.

20. In view of the above, the Contempt Petition is closed.

Skm

SD/
DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER(O.S.)

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SS/CO/22/04/2015

One CC to Government Pleader, SR.4877

One CC to M/s.T.K.S.Bharathy Anandraj, Advocate, SR.4837

To

1. Mr.Ravichandran,
The Tahsildar,
Sholinganallur,
Kancheepuram District.
2. Mr.Marimuthu Pandian,
The Assistant Commissioner,
Urban Land Tax,
Alandur, 153, Karaneegar Street,
Adambakkam, Chennai 600 088.

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