

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2015

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THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P. No.17664 of 2015

and

M.P.Nos.1 to 3 of 2015

K.Govindaraj
S/o.Koodandi
Deputy Registrar (Accounts)
High Court,
Chennai - 600 104.

... Petitioner

vs.

1. The Secretary to Government,
Revenue Department,
Fort St. George,
Chennai - 600 009.
2. The Principal Secretary & Commissioner
of Land Administration,
Chepauk,
Chennai - 600 005.
3. The Collector,
Kancheepuram District,
Kancheepuram.
4. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
5. The Revenue Divisional Officer,
Tambaram,
Kancheepuram District.
6. The Tahsildar,
Sholinganallur Taluk,
Kancheepuram District.

7. The Special Officer / President,
The High Court Employees City and
Judicial Officers Co-operative House
Building Society Ltd.,
Chennai.

(R7 is impleaded as per order dated 14.07.2015
in M.P.No.4/2015 in W.P.No.17664/2015)

... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus, to call for the records of the 2nd respondent passed in Letter No.B1/30019/2012 dated 22.05.2013 and quash the same and consequentially direct the 6th respondent to issue patta to the petitioner for the property purchased by him at No.115, Neelangari Village, Plot No.3, comprised in Survey No.92/177 A1A1B measuring an extent of 199 sq. meter (2142 sq. ft.).

For Petitioner : Mr.V.Raghavachari,
for M/s.P.Krishnan

For Respondents : Mrs.P.Rajalakshmi
Government Advocate

ORDER

This Court has a chequered history. The Government order was passed in the year 1991 making allotment with the Society in which the petitioner admittedly is a member. By an order dated 01.10.1992, a provisional allotment has been issued. Thereafter, a valuation was prepared by the Tahsildar on 13.03.1995. A sale deed was executed on 29.06.1995 and a supplementary sale deed was executed on 19.06.2012. In the meantime, a contempt petition was filed by Ex-Vice President of the Society. This Court, in Contempt Petition No.815 of 2002 dated 07.02.2004 was pleased to pass the following orders:

"9. A perusal of G.O.Ms.No.577 dated 25.11.2003 and the letter referred to above dated 01.12.2003 show that the respondents based on the directions of this Court in W.P.No.13414 dated 12.03.2001, the respondents have adopted the rate which was existing on the date of issue of G.O.No.107 Revenue Department dated 07.03.2001 and assigned the land to the petitioner Society. I am also satisfied that the Government have implemented the order of this Court dated 12.03.2001 in letter and spirit by adopting the land cost, which was existing in the year 1991. Even

though land cost fixed for the land allotted to the Secretariat employees was some what low, it seems to have been fixed taking note of the fact that the land is yet to be developed and it is not near the land allotted to the petitioner Society, whereas the land allotted to the petitioner Society is adjacent to a developed area. In view of the aforesaid circumstances, I am satisfied that there cannot be any further direction as claimed by the petitioner Society."

The said order was also implemented as seen from the proceedings of the District Revenue Officer in R.C.No.16184/2012 U3 dated 01.03.2012. The relevant portion is extracted hereunder:

"In the reference 3rd and 4th cited, the Tahsildar Sholinganallur and Revenue Divisional Officer, Tambaram, has recommended as Rs.1,12,899/- for fixation of land value. As such the land value requested is fixed as Rs.1,12,899/- for 2142 sq.ft. as on the year 1990."

The petitioner has paid the sale consideration as required. Thereafter, in the year 2013, a letter dated 22.05.2013 was addressed by the second respondent to the third respondent, seeking to re-fix the valuation. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing on behalf of the petitioner submitted that when admittedly two sale deeds, one sale deed executed on 29.06.1995, followed by supplementary deed executed on 19.06.2012 and admittedly, the sale consideration has been paid, no jurisdiction lies with the second respondent to reopen the said issue and there is absolutely no indication that the consideration fixed earlier and paid by the petitioner was tentative. Therefore, no jurisdiction lies with the second respondent to reopen the said issue at this stage.

3. The learned Government Advocate relying upon the counter affidavit filed, submitted that as per letter dated 04.04.1991, a condition has been imposed that the possession is handed over subject to the fixation of valuation by the government. Thus, the amount fixed on 01.03.2012 was tentative. It is further submitted that without the knowledge of the officials of the respondent, the Society has executed the sale deed in favour of the members.

4. What is required to be seen is the compliance of the order passed by this Court as indicated above in the contempt petition. In

compliance of the said order, the Tahsildar, Sholinganallur Taulk, has sent a communication dated 02.12.2011, to the District Collector. Accordingly, a sum of Rs.1,12,899/- has been fixed. There is no indication that the said order has not been accepted. On the contrary, the communication of the third respondent to the Special Officer of the High Court Employees and City Judicial Officers Co-operative Society would show that the land value has been fixed at Rs.1,12,899/- as on the year 1990. A perusal of the said communication dated 01.03.2012, nowhere indicates the tentativeness. Obviously, the said amount has been fixed as per the assessment made by the Tahsildar Sholinganallur and the Revenue Divisional Officer as seen in the said order. The said decision has been taken by considering the relevant data available.

5. The sale deed executed in favour of the society also does not indicate that the consideration is tentative. The respondents cannot rely upon the communication dated 04.04.1991 which was admittedly prior to the fixation of value by the Tahsildar, Revenue Divisional Officer and Collector. A strange stand has been taken in the counter affidavit and the same has not been approved by the Government.

6. In so far as the Society as well as the petitioner are concerned, they are not concerned as to who is the competent authority to fix the valuation. There is nothing to indicate that the earlier decision made was not done with the approval of the Government and if so, what was the action taken in that regard. Even on the principle of estoppel, it is not open to the respondents to take action to the contrary. It is settled law that once the sale deed is effected a title passes and it is a simple question of offer and acceptance which has taken place. It is also not the case of the conditional sale. Looking at any angle, this Court does not find any merit in the objection raised. Accordingly, this writ petition stands allowed. As there is no cloud over the title of the petitioner, the 6th respondent will have to issue appropriate patta to the petitioner within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

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Chennai.

+4cc's to Mr.P.Krishnan, Advocate, S.R.No.42604
+1cc to the Government Pleader, S.R.No.42404

W.P. No.17664 of 2015

EV(CO)
CA(17/08/2015)