

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.24175/2012

K.Rajappan

..Petitioner

Versus

1.The District Collector,
Salem.

2.The Revenue Divisional Officer
Mettur, Salem District.

3.The Tahsildar
Omalur, Salem District.

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the 2nd respondent to reconvey the property in survey No.28/6 situated at Mallikuttai village, Omalur Taluk, Salem District in favour of the petitioner and consequently, direct the 3rd respondent to issue a patta in favour of the petitioner after reconveyance of the said property within a stipulated time to be fixed by this Court.

For Petitioner : Mr.R.Ezhilarasan

For RR 1 to 3 : Mr.S.Gunasekaran, GA

ORDER

Heard Mr.R.Ezhilarasan, learned counsel for the petitioner and Mr.S.Gunasekaran, learned Government Advocate appearing for the respondents and perused the material available on record.

2.The petitioner seeks for issuance of a writ of mandamus to direct the respondents to reconvey the property in S.No.28/6 situated at Mallikuttai village, Omalur Taluk, Salem District and to issue a patta after reconveyance.

3.The facts which are necessary for the disposal of this writ petition are that one Marakkal purchased the property in question by a Sale Deed dated 24.02.1936 registered as Document No.429/1936 on the file of the Sub Registrar, Omalur. The said Marakkal, appears to have borrowed loan from the Government for conducting agricultural

activities and she had defaulted in payment. Therefore, the Special Deputy Tahsildar [Lands] brought the property for sale by conducting an auction and the Government of Tamil Nadu itself purchased the property for 0.10 ps. vide challan dated 07.08.1974 as "bought-in land" vide order dated 11.10.1974. After the demise of Marakkal, the legal heir who is the present writ petitioner, who is the beneficiary, pursuant to the Will executed by Marakkal's husband Karuppanna Gounder, paid the entire loan amount on 29.12.1975 which was payable by Marakkal. On effecting such payment, the petitioner requested that the lands may be reconveyed to him since it was purchased by the Government as "bought in land". A representation given by the petitioner was favourably considered and a report was given to the District Collector on 21.03.2003 recommending to the reconvey of the property. This was followed by another communication given by the District Collector dated 17.02.2009 to the Tahsildar by referring to the Board Standing Order No.45. Since the Tahsildar did not have sufficient records, he sought for certain clarification vide proceedings dated 28.06.2010 and thereafter, there has been stalemate in the matter, which necessitated the petitioner to file this writ petition.

4. In the counter, the above mentioned facts have been admitted, but the only point raised in the counter is the petitioner's claim is belated. Though the claim is belated, the authorities in their communications referred to supra, have accepted the case of the petitioner that the entire loan amount has been repaid. Furthermore, no 3rd party interest has accrued over the land and the Government has taken over the land by paying ridiculously less price of 0.10ps., which payment is a proforma price. Therefore, the Government cannot take over the petitioner's land pursuant to the auction conducted by the Special Deputy Tahsildar, Omalur. Therefore, the respondents cannot negative the petitioner's claim on the ground that the petitioner had belatedly approached them. In fact, the entire loan has been cleared immediately after the auction took place and this is admitted by both the District Collector as well as by the Revenue Divisional Officer. In such circumstances, the respondents are bound to reconvey the land to the petitioner which was purchased by the Government for a proforma price of 0.10ps.

5. Accordingly, the writ petition is allowed as prayed for. The respondents are directed to reconvey the land and issue a patta to the petitioner within a period of three months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

1.The District Collector,
Salem.

2.The Revenue Divisional Officer
Mettur, Salem District.

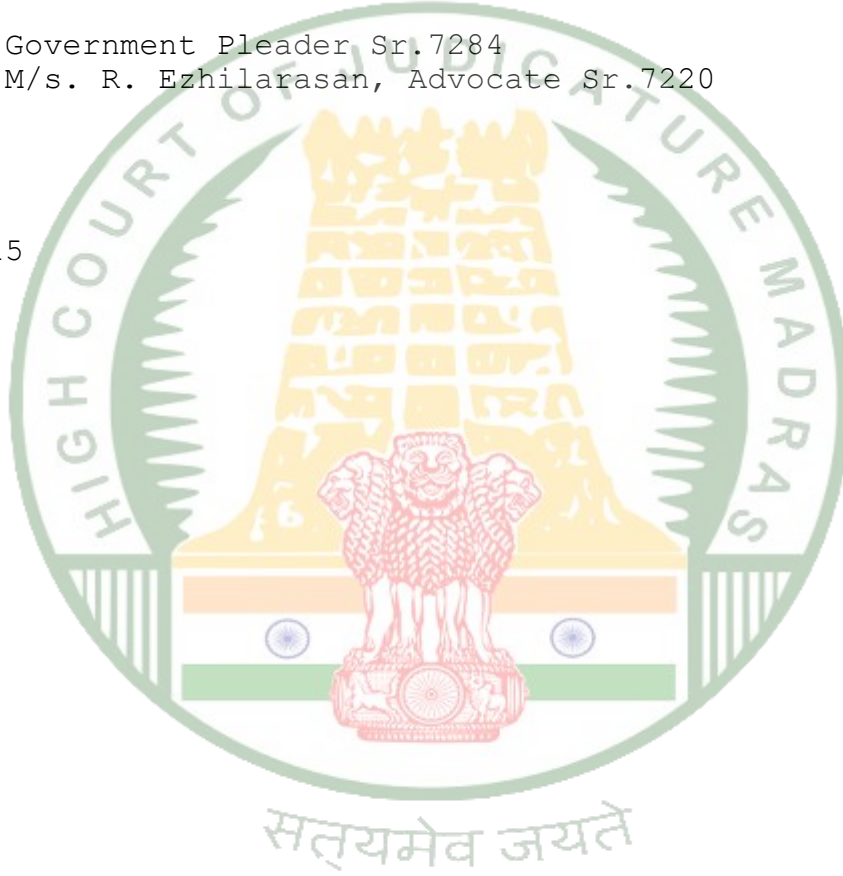
3.The Tahsildar
Omalur, Salem District.

+ 1 cc to Government Pleader Sr.7284

+ 1 cc to M/s. R. Ezhilarasan, Advocate Sr.7220

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RV (CO)
Eu 17.02.15



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