

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.27631 of 2011
and
M.P.No.1 of 2011

1.M.N.Chellappan

2.K.Rajan

3.K.Babu

4.Sarojini

... Petitioners

Vs.

1. The Special Commissioner & Commissioner of
Land Reforms (Urban Land Ceiling)
Ezhilagam, Chennai-600 005

2. The Assistant Commissioner of Urban
Land Ceiling and Urban Land Tax
Collectorate Complex
Coimbatore-18

3. Tamilnadu Slum Clearance Board
Coimbatore Division
rep.by the Administrative Engineer
Coimbatore

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus forbearing the respondents from initiating any proceedings under the Tamil Nadu Land (Ceiling and Regulation) Act, 1978 in respect of the house sites in Plot Nos.77, 93, 94 and 78 in Vadivu Nagar, Chettypalayam Road, Vellalore Panchayat, Coimbatore, comprised in Survey Nos.484, 485, 486, 487 and their sub-divisions in Vellalore Village.

For Petitioners : Mr.N.Sathiyamoorthy

For Respondents : Mr.P.Sanjay Gandhi,
Additional Government Pleader,
for R1 & R2
Mr.M.Perumal for R3

O R D E R

Reserved on : 31.08.2015

Pronounced on : 22.01.2016

The prayer in the writ petition is for issuance of a writ of mandamus to direct the respondents to forbear from initiating any proceedings under the Tamil Nadu Land (Ceiling and Regulation) Act, 1978, in respect of Plot Nos.77, 93, 94 and 78, in Vadivu Nagar, Chettypalayam Road, Vellalore Panchayat, Coimbatore, comprised in Survey Nos.484, 485, 486, 487 and its sub-divisions, in Vellalore Village.

2. The short facts of the case are as follows:

According to the petitioners, one Jagadish had formed a layout, known as Vadivu Nagar, consisting of more than hundred house-sites abutting Podanur-Chettipalayam Main Road, in Survey Nos.484, 485, 486 and 487 in Vellalore Village, within the area of Vellalore Town Panchayat in Coimbatore. Most of the purchasers have constructed residential houses in their respective plots and residing there.

3. Further, the petitioners have submitted that they have also purchased Plot Nos.77, 93, 94 and 78, measuring an extent of 2058 sq.ft., 1689 sq.ft., 1452 sq.ft., and 1920 sq.ft., respectively, from the said Jagadish, under four separate sale deeds for valuable sale consideration and they are in possession of their respective plots. They have also paid mandatory taxes to the Revenue Department and the Village Administrative Officer, Vellalore Village has also issued receipts for the same. In such circumstances, during 2007, some officials from the office of the third respondent came to the spot and removed the fencing put up by them. When they asked, the officials informed them that these plots have been taken over under Urban Land Ceiling Act. But, neither they nor their owner had received any notice from the respondents prior to the alleged taking over of the possession of subject plots under Urban Land Ceiling Act. Aggrieved by the same, they made representation, on 16.06.2007, to the respondents as well as to the District Collector, Coimbatore, requesting them not to interfere with their possession and enjoyment of the subject plots and they were directed to submit application to regularize the purchase of the subject plots under innocent buyer category. They had also made a representation to the Chief Minister's Cell, Government of Tamil Nadu, Chennai, seeking the similar request and they were informed that their request has been forwarded to the District Collector, Coimbatore, vide letter, dated 18.07.2007.

4. The petitioners have further submitted that the second respondent sent a notice, dated 12.11.2007, calling upon them to appear for enquiry on 28.11.2007 along with original title deeds. Accordingly, they had attended the enquiry and produced the original title deeds along with tax receipts.

The officials of the second respondent's office had perused the same and informed them that appropriate orders for regularization of their purchase would be passed within a reasonable time, after getting approval from the higher officials. Thereafter, even though there was no interference from the respondents' side, no orders for regularization were passed. When that being so, the officials from the office of the respondents 2 and 3 had once again come to the spot and insisted the petitioners to vacate the premises and hand over the possession of the subject plots to them within a period of two weeks.

5. Further, the petitioners have submitted that since the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 was repealed by the enactment of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 (Tamil Nadu Act 20 of 1999), the respondents have no authority to take over the possession of the subject plots. Furthermore, as per the Repeal Act, all the pending proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 have been declared as abated. Therefore, even assuming that if any proceeding is initiated, the same has to be treated as abated in view of the Repeal Act. Further, as per the Repeal Act and as upheld by the Supreme Court, when the possession of the land has not been taken over prior to the Repeal Act, 1999, such possession cannot be taken over thereafter and no proceeding can be initiated thereafter under the Repeal Enactment. When they have been in possession of the subject plots from 1991 without any interruption from any source, the respondents have no authority to declare that the subject plots have been subjected to proceeding under the Tamil Nadu Urban Land (Ceiling and Regulation) Act. The subject plots are their absolute properties and therefore the provisions of Tamil Nadu Urban Land Ceiling Act are not applicable and it cannot be invoked after the Repeal Act. Hence, they have filed this writ petition seeking the relief as stated above.

6. The learned counsel appearing for the petitioners has submitted that one Jagadish had formed a layout, known as Vadivu Nagar, consisting of more than hundred house-sites abutting Podanur-Chettipalayam Main Road, in Survey Nos.484, 485, 486 and 487 in Vellalore Village, within the area of Vellalore Town Panchayat in Coimbatore. Most of the purchasers have constructed residential houses in their respective plots. The petitioners have also purchased Plot Nos.77, 93, 94 and 78, from the said Jagadish, under four separate sale deeds and they are in possession of their respective plots. They have also paid mandatory taxes to the Revenue Department. In such circumstances, during 2007, some officials from the office of the third respondent came to the spot and removed the fencing put up by them. When they asked, the officials informed them that these plots have been taken

over under Urban Land Ceiling Act. But, neither they nor their owner had received any notice from the respondents prior to the alleged taking over of the possession of subject plots under Urban Land Ceiling Act.

7. Further, the learned counsel has submitted that the petitioners made a representation, on 16.06.2007, to the respondents and the District Collector, Coimbatore, requesting them not to interfere with their possession and enjoyment of the subject plots and they were directed to submit application to regularize the purchase of the subject plots under innocent buyer category. They had also made a representation to the Chief Minister's Cell, Government of Tamil Nadu, Chennai, seeking the similar request and they were informed that their request has been forwarded to the District Collector, Coimbatore, vide letter, dated 18.07.2007. The second respondent sent a notice, dated 12.11.2007, calling upon them to appear for enquiry on 28.11.2007 along with original title deeds. Accordingly, they had attended the enquiry and produced the original title deeds along with tax receipts.

8. The learned counsel has further submitted that the officials of the second respondent's office had perused the same and informed them that appropriate orders for regularization of their purchase would be passed within a reasonable time, after getting approval from the higher officials. However, the officials from the office of the respondents 2 and 3 had once again come to the spot and insisted the petitioners to vacate the premises and hand over the possession of the subject plots to them. Since the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 was repealed by the enactment of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 (Tamil Nadu Act 20 of 1999), the respondents have no authority to take over the possession of the subject plots. Furthermore, as per the Repeal Act, all the pending proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 have been declared as abated. Hence, for all these reasons, the learned counsel has prayed this Court to direct the respondents to forbear from interfering with the petitioners' possession of the subject plots.

9. The learned Additional Government Pleader appearing for the respondents 1 and 2 has submitted that the subject plots have been acquired under the Tamil Nadu Urban Land Ceiling Act. The said land had been acquired from the original vendor, after observing all the legal formalities. The second respondent, who is the authorized officer to acquire lands, had acquired the subject plots and handed it over to the third respondent for public purpose especially to provide house-sites to the downtrodden people. Now, the acquired plots are under the care and maintenance of the third

respondent. Therefore, the learned Additional Government Pleader has prayed for dismissal of the writ petition.

10. The learned counsel appearing for the third respondent has submitted that the subject plots along with adjacent lands had been acquired by the second respondent for the purpose of providing house-sites to the downtrodden people. Now, the third respondent has provided house-sites to the downtrodden people as per the Tamil Nadu Slum Clearance Board's rules and regulations. Further, at the time of alienation, the erstwhile vendor had not possessed any valid title deed and the third respondent is in possession of the subject plots. Hence, the learned counsel has prayed for dismissal of the writ petition.

11. On considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, it is seen that the proceedings, dated 18.07.2007, issued by the first respondent and the proceedings, dated 12.11.2007, issued by the second respondent are under process. As such, the relief sought for by the petitioner is not maintainable, since the outcome of the said proceedings is still forthcoming.

12. In the result, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

1. The Special Commissioner & Commissioner of Land Reforms (Urban Land Ceiling),
Ezhilagam, Chennai-600 005.
2. The Assistant Commissioner of Urban,
Land Ceiling and Urban Land Tax,
Collectorate Complex, Coimbatore-18.
3. The Administrative Officer,
Tamilnadu Slum Clearance Board,
Coimbatore Division, Coimbatore.

+1cc to the Government Pleader, S.R.No.4522

W.P.No.27631 of 2011
and M.P.No.1 of 2011

SR(CO)
CA(04/02/2016)