

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2016

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THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.3834 of 2015 &
M.P.Nos. 3 & 2 of 2015

S.Vasumathi

[PETITIONER]

Vs

- 1 The State of Tamil Nadu
Rep. by the Secretary to Government
Land and Administration Department
Fort St.George, Chennai 600 009.
- 2 The Under Secretary to Government
Revenue Department, Secretariat,
Fort St. George, Chennai 600 009.
- 3 The Special Commissioner cum
Commissioner of Land Reforms
Chepauk, Chennai 600 005.
- 4 The Commissioner
Urban Land Ceiling and Urban Land Tax
Chepauk, Chennai 600 005.

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of certiorarified mandamus, to call for the records of the 2nd Respondent relating to Government Letter bearing No. 4056/Na.Ni.U-1(1) 2011-1 dated 05/01/2012 and quash the same and also to direct the respondents and concerned officers to implement the G.O.No.565, Revenue Dated 26/09/2008 in so far as the petitioner is concerned without giving effect to the Government letter bearing No. 4056 / Na.Ni.U-1(1) 2011 - 1 dated 05/01/2012.

For Petitioner : Mr.S.Suresh
for M/s T.Srinivasaraghavan & Asso.

For Respondents : Mr.R.Rajeswaran
Spl.Govt. Pleader

O R D E R

Heard Mr.S.Suresh, learned Counsel appearing for the petitioner, R.Rajeswaran, learned Special Government Pleader appearing for the respondents and with their consent the Writ Petition is taken up for final disposal.

2.The petitioner who has purchased two plots viz. Plot No.71 and 107, comprised in Survey No.693/03 in Pallikaranai Village, measuring meagre extent of land, has approached this Court for a relief so as to protect her property, which according to her has been purchased with her hard earned money.

3.The petitioner seeks for issuance of a writ of certiorarified mandamus to quash the proceedings of the second respondent dated 05.01.2012 and to direct the respondents to implement G.O.Ms.No.565, Revenue dated 26.9.2008, in so far as the petitioner is concerned. The petitioner admits that the lands which have been purchased by her is comprised in Survey No.693/3, has been developed in to a layout of about 118 plots, originally belonged to one Jayaram Gramani, who had sold the property through his power agents Sachithanandam and Krishnaswamy, who executed sale deeds in the capacity of the President and Secretary of Thiru Vi.Ka. Public Servants Welfare House Site Society, Chennai. The further admitted fact is that the land is said to have been declared as an excess land in the hands of the original land owner Jayaram Gramani and it is not known as to whether those proceedings were validly done and what would be the effect of Tamil Nadu Urban Land (Repealing) Act, on the lands purchased by the petitioner. Nevertheless, the petitioner is in possession of the property and only when she went to the Taluk Office for applying patta, she came to know of the fact that the lands have been declared as excess in the hands of the original land owner. It is thereafter, the petitioner came to know that the Government took note of the plight of similarly placed persons like that of the petitioner and passed a Government Order in G.O.Ms.No.565 Revenue dated 26.09.2008. This Government Order was to give a reprieve to the purchasers like the petitioner and the Government rightly classified them as 'innocent buyers'.

4.The manner in which the purchase to be regularised has been stated in the Government Order and the Government decided to regularise those purchases by collecting amount, calculated on the extent of the property and a standard rate was fixed for each Taluk. The lands purchased by the petitioner falls in Alandur Taluk, for which a particular rate has been fixed in the Government Order.

5.The benefit of the said Government Order has been extended to the other purchasers, similarly placed like that of the petitioner who have also purchased smaller extent of lands in the same survey numbers. This came to notice of the petitioner only after she secured information under the Right to Information Act and the Information Officer attached to the Office of the fourth respondent by reply dated 12.11.2013, furnished the names of persons who have had the benefit of the Government Order, who have also purchased lands covered in Survey Nos.693/3A1 and 3B.

6.When the petitioner made a request for extending the similar benefit, she was informed that pursuant to the proceedings of the Government dated 05.01.2012, the further implementation of the Government Order was kept in abeyance. Therefore, the respondents expressed their inability to consider the petitioner's case. This necessitated the petitioner to approach this Court.

7.Firstly, it has to be noted that the Government passed an order on 26.09.2008 and decided to regularise the purchases made in Nine Taluks in the Chennai City and Alandur is one of the Taluk which has been brought under the said Government Order. The Government also fixed the rate which the buyer/purchaser had to remit to the Government to have the benefit of the regularisation of his/her purchase.

8.Admittedly, as on date the aforesaid Government Order has not been rescinded or modified. The Minutes of the Meeting of the officials as appended to the communication dated 05.01.2012 does not categorically state that the Government Order in G.O.Ms. No.565 has been superseded. In any event that being a Minutes and having not fructified into a Government Order, which has to be issued by the order of the Governor, the communication dated 05.01.2012 and the decision taken in the joint meeting is of little consequence to decide the rights of the petitioner. Furthermore, the benefit of the Government Order has been extended to the other persons who have also purchased property in Survey Nos.693/3A1 and 3b. Therefore, there is no reason to deny the relief sought for by the petitioner and if the same is denied, that would amount to discrimination. This is all the more so, because the benefit extended was in respect of all the purchasers and the benefits were given in respect of the lands covered in S.Nos.693, 1, 2, 3 etc. Those lands were declared as surplus in the hands of the original owners. Therefore, if the Government thought it fit to grant the benefit of the Government Order in G.O.Ms.No.565 to one of the purchasers in the said survey number, it goes without saying that all those persons who have purchased plots in the same survey number would also be entitled to the said benefits. Therefore, there is no reason to

keep the petitioner's application pending. That apart, the extent purchased by the petitioner is a meagre extent and if the petitioner is not able to obtain patta, she would not be entitled to develop the property by constructing a House, etc. Thus, for all the above reasons, the petitioner is entitled to the benefit of G.O.Ms.No.565 dated 26.09.2008.

9.In the result, the Writ Petition is disposed of by directing the fourth respondent to consider the petitioner's representation dated 19.10.2013, copy of which shall be enclosed by the petitioner along with the copy of this order and the fourth respondent shall extend the benefit of G.O.Ms.No.565 to the petitioner's case and direct necessary proposal to be forwarded to enable the petitioner to remit the requisite amount, so as to get the benefits of regularisation of the purchases of the plots vide sale deed dated 10.03.1983, registered as Document No.721/83 and 744/83, on the file of the District Registrar, Chennai City. The above direction shall be complied with by the fourth respondent, within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

- 1 The Secretary to Government,
The State of Tamil Nadu
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1cc to Mr.T.Srinivasaraghavan Associate, Advocate Sr.5728

W.P. No.3834 of 2015

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srg 10/02/2016



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