IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2016

Coram

The Honourable Mr.Justice HULUVADI G.RAMESH
and
The Honourable Mr.Justice V.PARTHIBAN

W.A. No. 600 of 2016

Mani Srinivasan ... Appellant/Petitioner

Vs.

1. The Secretary,
   Revenue Department,
   Government of Tamil Nadu,
   Fort St.George, Chennai-600 009.

2. The Director (Urban Land Ceiling &
   Urban Land Tax),
   Chepauk, Chennai-600 005.

3. The Assistant Commissioner (Urban and Ceiling)
   Tambaram,
   153, Karuneegar Street, Adambakkam,
   Chennai-600 088.

4. The District Collector,
   Kancheepuram District Collectorate,
   Kancheepuram-631 501.

5. Tahsildar,
   Taluk Office,
   Tambaram taluk,
   Chennai-600 045. ... Respondents/Respondents

Writ Appeal is filed under Clause 15 of the Letters Patent, seeking to set aside the order dated 27.01.2016 passed in W.P.No.23617 of 2013 by the learned single Judge of this Court.



W.P.No.23617 of 2013 : Petition filed under Article 226 of the Constitution of India, for a Writ of Declaration, declaring that the ceiling proceedings in File No. S.R. 200/97 Na. Ka. C. Pa. 200/97 C S.R.200/97 C Rc. 2712/97 C R.C. 2712/97/D of respondent 3 pertaining to the notification/acquisition in respect of the Schedule Property under the Ceiling Act as abated under Section 4 of the Repeal Act and in view of the illegalities set forth in this Writ petition and consequently directing respondent Nos. 4 and 5 to issue patta and mutate other land records in the name of the petitioner in respect of the Schedule Property.

For Appellant : Mr.G.Balasubramanian

For Respondents : Mr.R.Prathapkumar,
Additional Government Pleader

JUDGMENT
(Judgment of the Court was delivered by HULUVADI G.RAMESH, J.)

This Writ Appeal has been directed against the order of the learned single Judge passed in W.P.No.23617 of 2013 dated 27.01.2016, in and by which, the writ petition, filed by the appellant, seeking to quash the acquisition proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act in respect of his land, came to be dismissed.

2. Brief facts, necessary for disposal of the present appeal, are as follows:

3. The landed property measuring to an extent of 4150 sq.mts. in S.No.11/2A of Tambaram village, was originally owned by Thiru D.Siva Subramanian vide Patta No.281 as per the Revenue records. A notice under Section 7(2) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (in short, 'the Act') was issued on 10.5.1997 to the said land owner inasmuch as he did not file return under Section 7(1) of the Act. The said notice was served by way of affixture by the Village Administrative Officer on the pole situated in the subject land as per Rule 8(2)(c) since the address of the owner was not known as the report of the VAO revealed that he was not residing in the village. As there was no response, notice under Section 9 (4) with statement under Section 9(1) of the Act was issued on 27.5.1997. Thereafter, the land was inspected by the Assistant Commissioner, Urban Land Tax, Tambaram on 31.08.1997 and the character of the land was changed into urban. Consequently, proceedings under Section 9(5) of the Act were issued on 31.08.1997, declaring the subject land to an extent of 3650 sq.mts. as excess vacant land after allowing 500 sq.mts. towards entitlement. Under Section 10(1), a final statement was issued on 3.10.1997 and a Notification under Section 11(1) was issued on 10.11.1997 and it was published in the Tamil Nadu Government Gazette on 28.01.1998. Thereafter, Notification under Section 11(3) was issued on 11.3.1998 thereby, the land deemed to have been vested absolutely with the State Government free from all encumbrances with effect from 01.05.1998 and was published in the Gazettee on 22.4.1998. Thereafter, notice under Section 11 (5) was issued on 2.7.1998 and the possession of the said excess land was handed over to the Revenue Inspector, Tambaram Firka on 21.09.1998. Having obtained the said excess land after following formalities, the State Government allotted the same along with other lands to the Tamil Nadu Slum Clearance Board vide G.O.Ms.No.391, Revenue ULCI(2) Department.

4. Be that as it may, the appellant herein, has moved a writ petition before this Court, praying to declare that the ceiling proceedings pertaining to the subject land, as abated under Section 4 of the Repeal Act and to direct the respondent Nos.4 and 5 therein, to issue patta to the petitioner in respect of the said land.

5. According to the appellant, on 16.11.1988, he purchased a land measuring to an extent of 2760 sq.ft. from one Dr.S.Sivaswamy and one Mr.Sivasubramanian, who were represented by their Power of Attorney Mr.M.Rathina Sabapathy, under a registered sale deed vide Document No.5584/1988. He was residing in New Delhi, where he was employed and during intervals, he used to make periodical visits to the subject land. When he approached the Tahsildar, respondent No.5 herein, for grant of patta in respect of the subject property, he came to know that the said land was acquired as having declared as excess land under the provisions of the Act. The appellant, on 8.11.2010 applied for regularization of the property under the Innocent Buyers Scheme as provided vide G.O.Ms.No.565/ULC-I/Revenue Department dated 26.09.2008, however, though the appellant was belatedly served notice, in the mean time, the said scheme was withheld. The case of the appellant is that by virtue of the sale deed, he is the absolute owner of the property, however, he was not served with mandatory statutory notice under the Act nor erstwhile owner of the property and that no physical possession of the land was taken by the duly authorized officer of the State Government and compensation for the said land was paid to the persons entitled, in view of Sections 3 and 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) (Repeal) Act, 1999 all the proceedings under the Act shall abate. Further, since the appellant is the owner by virtue of the sale deed and the encumbrance certificate stands in his name, no third party right is created or altered from the date of the purchase and thereby, all the ceiling proceedings are not sustainable.

6. Having dealt with all the contentions raised by learned counsel for the writ petitioner/appellant and the learned Additional Advocate General for the respondents, the learned Judge dismissed the writ petition as devoid of merits and on laches since the writ petitioner approached the Court after a lapse of 25 years.

7. Though the learned counsel appearing for the appellant has reiterated similar contentions that were raised before the learned single Judge, we do not find any considerable force therein, in order to take different view. It is not in dispute that the appellant, having made so-called purchase from the erstwhile owner, did not make necessary entries in the revenue records and village accounts as regards his purchase and no steps were taken by him, to change the ownership of the land in his name in village and taluk accounts. It is pertinent to note

that the land ceiling proceedings were initiated during the year 1997 and ended in 1998 and it is the case of the appellant that he had frequently visited the subject property during the intervals, but it is surprising to know that he was not aware of the ceiling proceedings when the notices under the provisions of the Act, were served by way of affixture at the subject property. We do not find any irregularity in conducting the ceiling proceedings by the respondents since as per the revenue records, on the date of acquisition, the original land owner of the property was shown as D.Sivasubramanian and there was no reference about the name of the appellant herein in any revenue records, thereby, it is incumbent on the part of the respondents to initiate ceiling proceedings against said D.Sivasubramanniann only, which they had rightly done. It is settled law that mere based upon a registered sale deed, a person cannot claim title over the property. In this case, based on the registered sale deed alone, the appellant made his claim and approached this Court nearly after a lapse of 25 years, that too without even taking any steps to change ownership in his name in respect of the subject property in the relevant revenue records. In fact, the appellant, after coming to know that the land was acquired under the Act, he applied in the year 2010 for regularization of the property under the innocent buyers scheme, without rising any protest to the ceiling proceedings. However, after knowing that the said scheme was withheld, he approached the Court by way of a writ petition, by rising baseless contentions, pointing out irregularities that were said to have committed by the respondents, which, in our view, do not have any merit. Further, after following the procedure contemplated under the Act, the possession of the land was taken by the respondents. A notification under Section 11(1) of the Act was published in Tamil Nadu Government Gazette, calling for objections from the interested persons if any, however, as there were no objections were received from any persons, the land was acquired and vested with the Government. It is to be noted that it was also declared in the said notification that any sale made after 3.8.1976 in the urban land which was acquired under the Ceiling Act, are null and void. Admittedly, the sale deed of the appellant pertains to the year 1988 since registered on 16.11.1988 in respect of the property, which was declared as urban land and therefore, based on mere sale deed, the appellant cannot seek any relief.

In view of the foregoing discussion, we do not find any merits to entertain the writ appeal. Accordingly, the Writ Appeal fails and it is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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   Taluk Office,
   Tambaram taluk,
   Chennai-600 045.

+1cc to M/s.Poovayya & Co., Advocate, S.R.No.60307
+1cc to the Government Pleader, S.R.No.60601

W.A. No. 600 of 2016

VD(CO)
CA(08/12/2016)