

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.4647 of 2016
and MP.Nos.4026 and 4027 of 2016

1.Lysa Josephine
2.Kamala Mary (a) Kamala Mani ... Petitioners

Vs.

1.The State of Tamil Nadu
Rep by the Secretary,
Department of Revenue Administration
Fort St.George, Chennai-9.

2.The Assistant Commissioner (ULT)
Egmore Zone,
No.409, EVR Periyar High Road,
Aminjikari, Chennai-29.

3.The Sub Registrar
Sembium, F Type, 5/5, SIDCO Nagar,
Konnur, Chennai-49.

.... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent vide impugned letter in RC.255/13/A dated 19.08.2013, quash the same, and further direct the respondents not to take the petitioners property without adherence to due process of law and pass such further or other orders as this Court deem fit.

For Petitioners सत्यमेव जयते Mr.P.V.Sudakar

For Respondents : Mr.S.Pattabiraman, GA.

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O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with the present Writ Petition seeking for issuance of certiorarified mandamus to call for the records of the second respondent vide impugned letter in RC.255/13/A dated 19.08.2013 and to quash the same and further direct the respondents not to take the petitioners property

without adherence to due process of law and pass such further or other orders.

3.The petitioner submits that the vacant site forming part of Plot No.339 in S.No.226/1 and 226/2, Konnur Village, Saidapet Taluk formerly Chengalpattu District now Villivakkam village belongs to Bojammal w/o.Raghavendra and G.Manals s/o.Raghavendra Rao. The said original owners of the property executed a sale deed dated 30.01.1965 in Document No.288 of 1965 on the file of Sub Registrar, Sembium in favour of Sree Baba Cooperative House Sites Society Limited, registered as No.505 under the then Madras Cooperative House Societies Act. The said cooperative society obtained several lands in Villivakkam from many persons and formed an approved layout for house sites. The said layout has been approved by the Director of Town Planning in his letter C.No.23393/63-G3 approving the said layout in DTP/TP.No.41/64. After the approval of layout, the said plots in the house sites have been sold to various persons.

4.The petitioners father purchased plot No.339 comprised in S.No.226/1 and 226/2 from the said Sree Baba Cooperative House Sites Society Limited through a registered sale deed dated 07.05.1965 in Document No.1691/1965 on the file of Sub Registrar, Sembium. The petitioners father was in exclusive possession and enjoyment of the said property and died on 20.01.1979 leaving behind his wife/Elizabeth and unmarried daughter/Jaya Mary and the petitioners herein. The petitioners mother died on 07.05.1993 and subsequently, the petitioners sister Jaya Mary died on 19.11.2014. Hence, the petitioners herein are entitled for the said property.

5.The petitioners wanted to develop the said property and hence they approached the 3rd respondent to ascertain the value of the same. The third respondent informed that there is a proceeding of Urban Land Tax authority taking hold of the properties in Sree Sai Baba Nagar. The 3rd respondent was not able to provide a copy of the proceedings of Urban Land tax authority viz., 2nd respondent. The petitioners come across with the proceedings of 2nd respondent dated 19.08.2013 in RC.255/13/A, wherein the second respondent written a letter to the 3rd respondent stating that among other survey numbers in Konnur Village, S.No.226/1, measuring 2200sq.meters has been considered to be excess vacant land and acquired under the Tamil Nadu Urban Land Ceiling and Regulation) Act, 1978. In view of the said letter, the second respondent forbears the third respondent from registering any documents of conveyance in the respective village.

6.Heard the learned counsel for the petitioners and the learned Government Advocate and perused the records.

7.The learned counsel for the petitioner submitted that during 1965 itself, the society purchased the land from the original owners and converted the said lands into house site plots and sold to the petitioners and others, before enactment of the Urban Land Ceiling and Regulation Act, 1978. The letter of the second respondent dated 19.08.2013 sent to the third respondent is unfounded and not supported by any legally tenable proceedings as none of the process mentioned in the Urban Land Ceiling Act for acquisition of excess vacant land has been adhered by the respondents. Hence, the petitioners filed the present writ petition before this Court to quash the proceedings of the second respondent dated 19.08.2013 in RC.225/13/A.

8.On a perusal of materials available on record, I find that the second respondent without considering all the above said aspects passed the present impugned order dated 19.08.2013 in RC.No.255/13/A, the said order is liable to be quashed and the same is quashed accordingly.

9.In the result, the writ petition is allowed, as prayed for. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1 The Secretary,
Government of Tamil Nadu,
Department of Revenue Administration,
Fort St.George, Chennai-9.

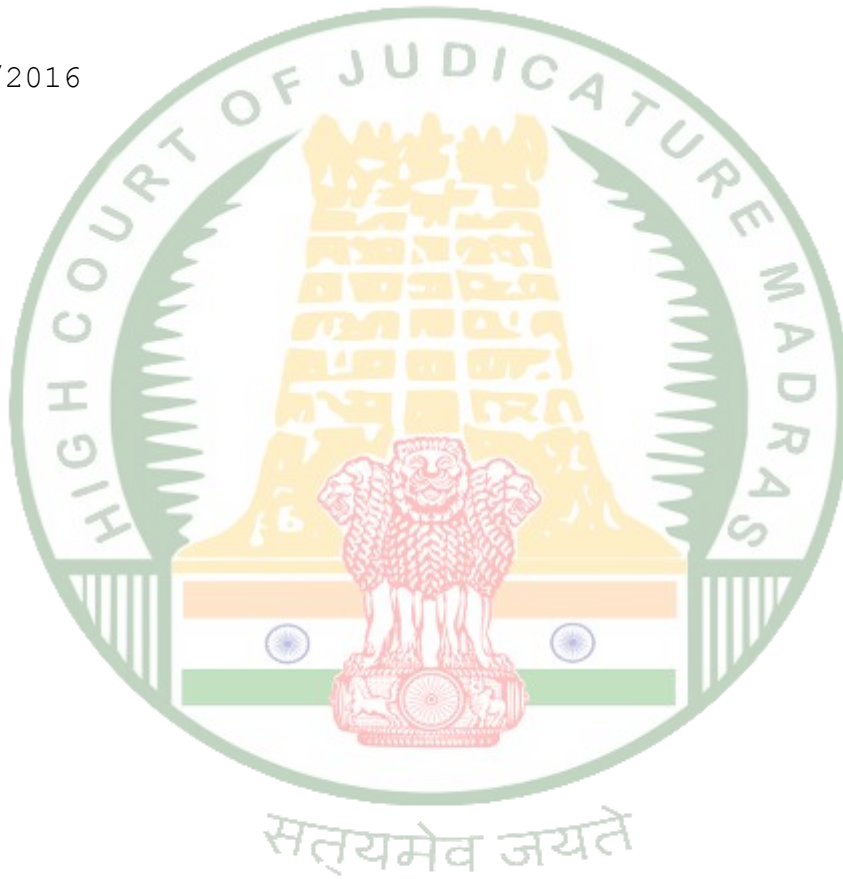
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3.The Sub Registrar
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Konnur, Chennai-49.

+1cc to the Government Pleader Sr.17724
+1cc to Mr.P.V.Sudhakar, Advocate sr.17087

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