IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2017

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.28873 of 2013
and
M.P.No.1 of 2013

1. Mr.A.Abdul Rahim
2. Mrs.Zareena
3. Mrs.Asha ...Petitioners

Vs.

1. The Special Commissioner
and Commissioner Urban Land Ceiling
and Urban Land Tax, Ezhilagam,
Chepauk, Chennai - 600 005.

2. The Assistant Commissioner,
for Urban Land Tax,
Tambarram, at Alandur,
Chennai - 600 088. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration, declaring that the proceedings initiated by the Second Respondent in Rc.D.2026/84 dated 30.03.1988 is abated in view of Section 4 of the Repeal Act, since the physical possession of the Land comprised in Survey No.258/2 to an extent of 1.38 Acres situated at Thiruneermali Village, Tambaram Taluk, Chengalpet District is with the Petitioners.

For Petitioners : Mr.A.Ramu

For Respondents : Mr.Akhil Akbar Ali,
Government Advocate

O R D E R

The petitioner has come forward with this Writ Petition praying to issue a Writ of Declaration, declaring that the proceedings initiated by the Second Respondent in Rc.D.2026/84 dated 30.03.1988 is abated, in view of Section 4 of the Repeal Act (Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act), since the physical possession of the Land comprised in Survey

No.258/2 to an extent of 1.38 Acres situated at Thiruneermali Village, Tambaram Taluk, Chengalpet District is with the Petitioners.

2. The case of the petitioners is that in view of Section 4 of the Repeal Act, the proceedings initiated by the second respondent dated 30.03.1988 is abated and that the physical possession of the land in Survey No.258/2 to an extent of 1.38 Acres situated at Thiruneermali Village, Tambaram Taluk, Chengalpet District vested with the petitioner. It is an admitted case that the first petitioner, his wife, his friend and his friend's wife jointly purchased the said land from one V.Naganatha Iyer and his son Sivaraman, by virtue of a sale deed dated 23.04.1984 for a sum of Rs.40,000/- which is registered in Document No.1778 of 1984 in the Sub-Registrar at Pallavaram. According to the petitioners, the impugned proceedings dated 30.03.1988 has been issued to one N.Sivaraman, son of late V.Naganatha Iyer, who was the original owner who sold the property to the petitioners in the year 1984, vide sale deed mentioned supra.

3. The said proceedings dated 30.03.1988 would make it clear that after issuance of Section 4(1) Notification, the Urban land owner, namely the person who sold the property to the petitioners, has filed return Section 6(1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. He has been asked to appear for enquiry, but he did not appear and the notice under Section 9(4) was issued on 20.09.1984 with regard to proposed acquisition of vacant land to an extent of 5100 sq.mts after allowing 500 sq.mts towards entitlement, and the same was received by the urban land owner on 29.09.1984. It was found that Thiru.V.Naganatha Iyer was no more, and hence, a fresh notice was issued to the subsequent owner Thiru.N.Sivaraman and the land was inspected by the Assistant Commissioner on 30.03.1988 and found vacant. Though the final statement is said to have been issued under Section 10(1) on 21.06.1988 and notification under Section 11(1) was issued on 08.09.1988, which was published in the Tamil Nadu Government Gazette on 05.10.1988, and notification under Section 11(5) of the Act was issued on 10.11.1998, which was published in the Gazette on 30.11.1988 vesting the excess vacant land with the Government with effect from 30.11.1998. The land was in possession with the Government.

4. Though the document produced by the petitioners, namely the sale deed, dated 23.04.1984 appears to be in the name of the petitioner, the erstwhile owner appears to have suppressed the fact with regard to the proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 and sold the property. There is possibility of collusion also, but there is no evidence

to that effect. The contention that the petitioners are in physical possession of the property in the aforesaid Survey number, cannot be a ground to declare the impugned proceedings as abated, as the erstwhile person who was owning the land, has appeared for the enquiry and the original owner Sivaraman has received the compensation. The entire compensation was sanctioned and kept in R.D.No.165, dated 19.02.1991 and the original owner participated in the acquisition proceedings.

5. This Court is not inclined to accept the contention of the petitioners for declaring the impugned proceedings as abated, and the action of the petitioners is only by indirectly trying to usurp the property which already vested with the Government, and the said contention of the petitioners cannot be countenanced. Moreover, all the Revenue Records have been mutated.

6. For the foregoing reasons, the Writ petition is dismissed. No costs. consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To
1. The Special Commissioner
and Commissioner Urban Land Ceiling
and Urban Land Tax, Ezhilagam,
Chepauk, Chennai - 600 005.

2. The Assistant Commissioner,
for Urban Land Tax,
Tambarram, at Alandur,
Chennai - 600 088.
+ 3 ccs to Mr. A. Ramu, Advocate Sr.52317, 51818

+ 1 cc to Government Pleader SR.53286

W.P.No.28873 of 2013

NM(CO)
EU 11.08.17