IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2017

CORAM :

THE HONOURABLE MR. JUSTICE.S.VAIDYANATHAN

W.P.No.22003 of 2003

Globe Mirror Industries,
SP26, Industrial Estate,
Guindy, Chennai 600 032
rep. by its Partner,
M.S.Anandhan .. Petitioner

Vs.

1. State of Tamil Nadu,
   rep. by its Secretary,
   Revenue Department,
   Fort St. George,
   Chennai 600 009.

2. The Assistant Commissioner,
   Urban Land Tax,
   T.Nagar,
   Chennai 600 024. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus calling for the records of the 2nd respondent made in Na.Ka.No.2361/91, dated 03-09-2002, quash the same and consequently forbear the respondent from proceeding against the petitioner under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978.

For Petitioner : Mr.A.Jenasenan
For Respondents : Mr.Akhil Akbar Ali,
Government Advocate

O R D E R

The petitioner has come up with the present Writ Petition seeking to quash the order dated 03.09.2002 passed by the 2nd respondent made in Na.Ka.No.2361/91 and consequently forbear the respondents from proceeding against them under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978.

2. According to the petitioner, their firm had purchased a Plot In Thiru-vi-Ka Industrial Estate at Guindy admeasuring 2387.50 sq. mtrs. comprised in T.S.No.40/1, 41/1, 39/1, 42/1 and 43/1 in Block No.5, Alandur, vide registered Sale Deed dated

29.02.1989 from M/s.Tamil Nadu Small Industries Development Corporation Ltd., Chennai. As the lands purchased fall under the Madras Urban Agglomeration, the petitioner firm applied to the Government for exemption of the excess vacant land under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. The 1st respondent, after detailed consideration of the representations made by the petitioner held that the petitioner firm was holding an extent of 2065 sq. mtrs. of vacant urban land and by G.O.Ms.No.601, dated 12.04.1988, had granted exemption of the excess vacant land to be held by the petitioner firm. While so, the 1st respondent held that the petitioner firm was entitled to retain 500 sq. mtrs. of vacant urban land as an Industrial Undertaking.

3. As an Industrial Undertaking was entitled to retain 2000 sq. mtrs. of excess vacant land, the petitioner firm made a representation to the 1st respondent vide representation dated 16.03.1989 to re-work the extent of vacant land held by the petitioner firm. The Government, after consideration, vide G.O.Ms.No.1985, dated 10.09.1990 had re-worked the excess vacant land and held that the petitioner firm was holding excess vacant land of 565 sq. mtr. and had exempted the petitioner firm from the provisions of the Act. That being so, the 1st respondent, vide G.O.Ms.No.121, dated 21.02.1994 had withdrawn the exemption granted to the petitioner herein in G.O.Ms.No.1985, dated 10.09.1990 with regard to the excess vacant land worked out to 565 sq. mtrs.

4. Thereafter, the 2nd respondent issued notice on 03.09.2002 calling for an explanation from the petitioner firm with regard to the withdrawal of exemption granted in G.O.Ms.No.601, dated 12.04.1988. Immediately, on receipt of the notice, the petitioner firm sent a representation to the 2nd respondent herein. However, the petitioner was informed that pursuant to the Notice dated 03.09.2002, action is being initiated under the Act. Though the petitioner resisted the action of the said officials stating that the said Act had been repealed as early as 1999, the Officials had taken measurements of the land. Hence, challenging the order of the 2nd respondent made in Na.Ka.No.2361/91, dated 03-09-2002, the petitioner has approached this Court.

5. Today, when the matter was taken up for hearing, learned counsel for the petitioner drew the attention of this Court to the counter affidavit filed by the respondents, wherein, it is stated that the exemption granted was withdrawn before the Repeal Act and that possession of the land has not been taken prior to the commencement of the Repeal Act. Relevant paragraphs 12 and 13 of the counter affidavit are extracted hereunder:

"12. In the meantime, the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 was repealed w.e.f. 16.06.1999 and the Government in G.O.Ms.No.111, Revenue ULC 1(1) Department, dated 03.03.2007 have passed orders and issued clarification in Government Letter No.392, Revenue Department, dated 24.07.2007 to the effect that all actions taken u/s.21(2) of the Principal Act, after the commencement of the Repeal Act shall abate and further action be dropped.

13. In this case also, exemption was withdrawn before Repeal Act, but action u/s 9-11 was not completed before Repeal Act. The possession of the above land was not taken over prior to the commencement of the Repeal Act. Action taken in this case is abated as per G.O.Ms.No.111, Revenue ULC 1(1) Department, dated 03.03.2007."

6. In the light of the submissions made by the respondents in paragraphs 12 and 13 of the counter affidavit (extracted supra), the order dated 03.09.2002 passed by the 2nd respondent in Na.Ka.No.2361/91 is quashed and the Writ Petition is allowed. No costs. Consequently, connected W.P.M.P.No.27261 of 2003 is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To:

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

2. The Assistant Commissioner,
   Urban Land Tax,
   T.Nagar,
   Chennai 600 024.

+2cc to Mr.A.Jenasenan, Advocate in sr.no.66622,65576

W.P.No.22003 of 2003

NR 22/09/2017