

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.28742 of 2005

and

MP.No.31393 & 31394 of 2005

1. Rukmani
2. M.Sundar
3. Prema
4. Kamaraj
5. Sarojini
6. malathi
7. Mythili
8. Satish Kumar
9. Swaminathan
- 10.Vijaya
- 11.Suvitha

Minor Rep. By her Mother and Natural Guardian Mrs.Vijaya.

- 12.S.Bhaskar
- 13.S.Ravi
- 14.S.Padmanabhan
- 15.S.Velu
- 16.Mani
- 17.V.Poruran
- 18.Senthil
- 19.Vijay
- 20.Chandran
- 21.Subbulakshmi
- 22.Jothilakshmi

Minor Rep.by her Father and Natural Guardian Poruran

- 23.Lokanathan
- 24.L.Venkatesh
- 25.L.Karthik
- 26.Raja
- 27.Ammu
- 28.Sangeetha

.....Petitioners

-vs-

1. The Government of Tamil Nadu,
rep. by its Secretary,
Housing & Urban Development Dept,
Fort St.George, Chennai - 600 009.

2. The Sub Registrar,
Thiruporur,
Chengalpat Taluk,
Kancheepuram District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for records relating to G.O.Ms.No.241 dated 19.09.2003 Housing and Urban Development (UD-III-1) Dept. passed by first respondent banning registration of the sale of the property of the petitioners herein measuring an extent of 24.5 acres comprised in Survey No.24/1B, 3 acres comprised in S.No.14/7, 2.5 acres in survey No.14/10B, 5.5 acres comprised in survey No.15/1B and in all totalling 35.75 acres i.e. 87.50 cents situate at 45, Thiruvidanthai village, Chengalpattu Taluk, Kancheepuram District and this property is situated within the Sub Registration District of Thiruporur and Registration District of Kancheepuram and quash the same and direct the 2nd respondent herein to permit the petitioners to sell the property of the petitioner by executing the same deed in favour of any prospective purchaser without taking in to consideration of the said G.O.Ms.No.241 dated 19.09.2003.

For Petitioner : Mr.P.Subba Reddy

For Respondents : Mr.Akhil Akbar Ali
Government Advocate for R1
Mr.P.P.Purushothaman
Government Advocate for R2.

O R D E R

With reference to the relief sought for in the present writ petition is to quash the G.O.Ms.No.241, Housing and Urban Development Department, dated 19.09.2003, this Court passed a common order in a batch of writ petitions in W.P.Nos.23318 of 2004 etc. batch of cases on 12.04.2006.

2. The learned counsel for the writ petitioner states that the present writ petition is alone left at the time of listing of the batch of writ petitions. This Court passed the following orders in paragraphs-7 and 8 as follows:-

"7. Applying the aforesaid ratio of the decision to the case on hand, I find that the present Government Order in G.O.Ms.No.241, dated 19.9.2003 has also been issued by the first respondent State Government in exercise of its powers under Article 162 of the Constitution of India.

There is no reference to any of the provisions of the Registration Act for the purpose of issuing the impugned Government Order. It is common ground that the issue relating to the Registration of any conveyance or other documents are governed by the provisions of the Registration Act. Therefore, the various restrictions and stipulations contained in G.O.Ms.No.241, dated 19.9.2003 if allowed to operate, would virtually set at naught the statutory provisions contained in the Act as has been held by the above referred to decision. Such an exercise of power by the State Government under Article 162 of the Constitution of India cannot be allowed to operate, which directly conflicts with the statutory provisions contained under the Registration Act.

8. Having regard to the said legal position, the impugned Government Order cannot stand and the same is liable to be struck down. The writ petitions stand allowed, the impugned Government Order is hereby quashed. Consequently, the connected W.P.M.Ps are closed."

Thus, the benefit of the order passed by this Court in the batch of writ petitions, cited supra, is to be granted in favour of the writ petitioner also.

3. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pkn

To

1. The Secretary,
Government of Tamil Nadu,
Housing & Urban Development Dept,
Fort St.George, Chennai - 600 009.

2. The Sub Registrar,
Thiruporur,
Chengalpat Taluk,
Kancheepuram District.

W.P.No.28742 of 2005

CP (CO)

rrs 21/01/2019



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