IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.16 of 2018

1.Narpavi Homes Pvt.Ltd.,
rep.by its Managing Director,
J.Jayakrishnan,
No.19, Vellaiyan Street,
Kotturpuram, Chennai-600 085.

2.A.V.Krishnan ... Appellants

-vs-

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

2.The Additional Chief Secretary / Commissioner,
Land Administration, Chepauk,
Chennai-600 005.

3.The District Collector,
Kancheepuram District.

4.The District Revenue Officer,
Kancheepuram. ... Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.12371 of 2016 dated 25.10.2017.

Prayer in WP.No.12371/2016:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records relating to the order dt.12.01.2015 in RC No.F2/10663/2014 of the 2nd respondent and quash the same and direct the 2nd respondent herein to consider the Revision Petition dated 15.04.2014 filed by the petitioners and pass orders on merits.

For Appellants :: Mr.V.R.Kamalanathan

For Respondents :: Mr.R.Govindasamy,
Special Government Pleader

JUDGMENT
(Delivered by HULUVADI G.RAMESH, J.)

The case of the appellants is that the first appellant became absolute owner of the land to an extent of 5 acres by virtue of sale deeds dated 30.01.2012 and registered as Document Nos.1065 and 1066 of 2012. The subject properties were originally assigned to one M.Ganesan in the year 1965 and thereafter the property was mortgaged, followed by bank auction and finally it was settled in favour of the appellant's vendors. Only thereafter, the appellants came to know that the assignment granted to the said M.Ganesan was cancelled by order dated 09.05.1981 in R.C.No.747/80 by the Sub-Collector, Chengalpattu for the reason that cultivation was not done within a period of three years from the date of assignment. They also came to know that the appeal filed by their vendors before the fourth respondent challenging the order passed by the Tahsildar, Chengalpattu rejecting their request to grant patta in their names, came to be dismissed.

2.The appellants would further state that since the appellants have invested huge sums of money in purchasing the property in question, and they were affected because of the order of the fourth respondent, they made a representation dated 09.10.2013 to the fourth respondent to give them an opportunity to present their case and documents and to consider their case for issuance of patta. Finally the matter culminated in passing an order dated 12.01.2015 by the second respondent refusing to entertain the revision petition filed by the appellants on the ground that the same was filed belatedly, apart from the fact that the appellants were not a party before the District Revenue Officer, whose order was sought to be revised before the second respondent. Challenging the order passed by the second respondent, the appellants filed a writ petition before this Court in W.P.No.12371 of 2016 and the same was also dismissed by order dated 25.10.2017 on the ground of delay in approaching the second respondent and also on the reason that the very purchase of the appellants from their vendors was much later after the cancellation of assignment as early as in the year 1965.

3.The learned counsel for the appellants has submitted that the learned single Judge ought to have seen that the appellants became aware of the orders passed by the Sub-Collector and District Revenue Officer only in the year 2013 and only thereafter revision petition was filed. Further, the learned single Judge ought to have seen that the appellants claim right over the immovable property and hence the delay ought to have been condoned and the revision should have been decided on merits.

4.The learned Special Government Pleader appearing for the respondents has submitted that the learned single Judge has considered the matter in proper perspective and has passed the impugned order and hence the same does not require any interference in the hands of this Court.

5.Heard the learned counsel on either side and perused the materials available on record.

6.It appears that the property in question has been resumed by the authorities since no cultivation has been done for three years in the assigned land. Subsequently, the property was mortgaged and the appellants became aware of the orders passed by the Sub-Collector and District Revenue Officer only in the year 2013 and only thereafter revision petition was filed. The appellants, being a third party purchaser, unaware of these things, incurred a huge loss in purchasing the property. The learned single Judge has also rejected the prayer made by the appellants on the ground of delay and on the reason that that the very purchase of the appellants from their vendors was much later after the cancellation of assignment as early as in the year 1965. It is also seen that at the relevant point of cancellation of assignment, the appellants were not parties to the proceedings.

7.In these circumstances, we are of the view that ends of justice would be met only if proper adjudication is done by the second respondent, viz. Additional Chief Secretary / Commissioner of Land Administration, Chennai. In such view of the matter, the order passed by the learned single Judge in W.P.No.12371 of 2018 dated 25.10.2017 and the order passed by the second respondent dated 12.01.2015 in RC.No.F2/10663/2014 are set aside and the matter is remitted to the second respondent, viz. Additional Chief Secretary / Commissioner of Land Administration, Chennai. The second respondent shall issue fresh notice to all the necessary parties, afford opportunity and then pass appropriate order in accordance with law, within a period of four months from the date of receipt of a copy of this judgment.

8.The writ appeal is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM
To

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

2.The Additional Chief Secretary / Commissioner,
Land Administration, Chepauk,
Chennai-600 005.

3.The District Collector,
Kancheepuram District.

4.The District Revenue Officer,
Kancheepuram.

+1cc to Government Pleader SR.NO.65038
+1cc to Mr.V.R.Kamalanathan, Advocate SR.NO.64460

PA(CO)
sm:2.11.2018

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