IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.01.2018
PRONOUNCED ON : 28.06.2018

CORAM :

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

WA.No.5 of 2017
and CMP.No.122 of 2017

1.The Revenue Secretary
Revenue Department
Secretariat, Chennai-9.

2.The Special Commissioner and Commissioner,
Urban Land Ceiling and Urban Land Tax
Chepauk, Chennai-5

3.The Assistant Commissioner,
Urban Land Tax,
Collector's Compound
Coimbatore - 641 018. .. Appellants/Respondents

vs.

1.T.Stephen
2.P.Arockiaraj
3.S.Gunasekar
4.T.Vimalabai
5.U.Shanmugam
6.K.Sudhakaran
7.R.Raja Rajeswari
8.N.Ernest John
9.K.Dhandapani
10.K.Adaikala Kumar
11.C.Saraswathi
12.R.Kamalam
13.S.Pichaiyah
14.D.Gilbert Jose
15.R.Sundaravalli .. Respondents/Petitioners

PRAYER : Appeal is filed under clause 15 of Letters patent, to set aside the order dated 25.04.2012 made in WP.No.16690 of 2010.

Prayer in WP.No.16690/2010:Writ petition filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records on the file of the respondents 2 and 3 and quash the proceedings in Na.Ka.No.6885/87/E2 dated 25.4.91 issued by the third respondent.

For appellants : Mrs.Narmadha Sampath, AAG
assisted by Mrs.Ramya Revathy, GA

For respondents: Mr.G.Ponambala Thiagarajan

JUDGMENT

P. VELMURUGAN, J.

This appeal is filed against the order dated 25.04.2012 passed by the learned single judge in WP.No.16690 of 2010.

2. The respondents have purchased lands in Kurichi Village, Pothanur, Coimbatore, without knowing the proceeding initiated against the original landowners under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. Later, the respondents came to know the earlier proceedings and submitted a common representation requesting to cancel the proceedings initiated against the land purchased by them.

3. The third appellant, based on the said representation, conducted an enquiry and ultimately passed an order, rejecting the claim. The said order was challenged by the respondents by preferring an appeal before the Special Commissioner, Urban Land Ceiling and Urban Land Tax, Chepauk, Chennai. The respondents were informed through an intimation that they had to seek the remedy only before the Court of law. Hence, the respondents filed the writ petition and in respect of the very same proceedings, some of the purchasers preferred a writ petition in W.P.No.11776 of 2010 challenging the very same impugned proceedings and this Court by order dated 13.07.2010 quashed the proceedings under the Urban Land Ceiling Act.

4. Aggrieved against the order passed by the learned single judge in WP.No.16690 of 2010 dated 25.04.2012, the appellants have preferred the present writ appeal.

5. The learned Additional Advocate General representing the appellants would contend that as per the records, notices under Section 9(5) and 11(5) of the Act were served on one Mr.Ramasamy Gounder who is the erstwhile owner of the properties. It is further stated that the possession was also taken in respect of the properties of the respondents on 15.09.1997. The respondents approached this Court after a lapse of 12years from the date of acquisition. The respondents were not the urban land owners on the date of the Principal Act coming into force. They are subsequent purchasers of a portion of the acquired land and they have no locus standi to challenge the acquisition proceedings. The transactions between the respondents and the erstwhile owner during 1995 to 2001 are all null and void and hit by Section 6 of the Act. Hence, the learned Additional Advocate General prays for

allowing the writ appeal.

6. The learned counsel for the respondents would contend that originally the land in SF.No.201/2, Kurichi Village, Coimbatore belong to one Alagiri Ammal and Veerabadran by virtue of sale deed dated 14.05.1963 registered as Document No.2700 of 1963 on the file of District Registrar Office, Coimbatore. The notice in the statutory proceedings was not served on the original owner under the Act. The second appellant acquired the land under the Act on 25.04.1991. They have not served any notice on the original owners or on the subsequent purchasers. The respondents obtained permission and put up construction on the lands and when they approached the authorities for grant of patta, they were informed that proceedings under the Act was taken against the erstwhile owner and the land was declared as surplus land. Though patta stands in the name of the erstwhile owner no notice under Section 11(5) of the Act was served on them. The said 4.51 acres was purchased through different sale deeds and a layout was formed in the name of Bharat Nagar. After formation of layout, the said Ramasamy was one of the purchaser of the said land, his share was sold to one Seethalakshmi under a sale deed dated 27.05.1987 vide Doc.No.2127 of 1987. As on 27.05.1987, the said Ramasamy has no piece of land in SF.No.201/2. That being the actual position, the third appellant under Tamil Nadu Urban Land Ceiling Act issued notice dated 08.08.1990 to Ramasamy as if he was the owner of the entire 4.51acres. For which, the said Ramasamy has not filed any statement and the third appellant without verifying the title deed, revenue records and other relevant documents, passed an order by allotting 1400sq.mtr to the said Ramasamy and acquired the remaining 16,750sq.mt to the Government by his order dated 25.05.1991.

7. We have heard the rival submissions made on both sides, perused the typed set of papers and original file produced by the Department.

8. It is useful to refer Section 7(1), (4) and (5) of the Tamil Nadu Urban Land (Ceiling and Regulation), Act 1978.

> 7. Persons holding vacant land in excess of ceiling limit to file statement :-(1) Every person holding vacant land in excess of the ceiling limit at the commencement of this Act shall, within such period as may be prescribed, file a statement before the competent authority having jurisdiction specifying the location, extent and such other particulars as may be prescribed of all vacant lands and of any urban or other land on which there is a building, whether or not with a dwelling unit therein in any urban agglomeration held by him (including the nature of his right, title or interest

therein) and also specifying the vacant lands within the ceiling limit which he desires to retain.

(4)The statement under this section shall be filed,-

(a) in the case of an individual, by the individual himself ; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs by his guardian or any other person competent to act on his behalf ;

(b) in the case of a family, by the husband or wife, and where the husband or wife is absent from India. or is mentally incapacitated from attending to his or her affairs, by the husband or wife who is not so absent or mentally incapacitated and where both the husband and the wife are absent from India or are mentally incapacitated from attending to their affairs, by any other person competent to act on behalf of the husband or wife or both ;

(c) in the case of a company, by the principal officer thereof ;

(d) in the case of a firm, by any partner thereof ;

(e) in the case of any other association, by any member of the association or the principal officer thereof; and

(f) in the case of any other person, by that person or by a person competent to act on his behalf.

Explanation - For the purposes of this sub-section, " principal officer" -

(i) in relation to a company, means the secretary, treasurer, manager or managing director of the company ;

(ii) in relation to any association, means the secretary, treasurer, manager or agent of the association; and includes any person connected with the-management of the affairs of the company or the association, as the case may be, upon whom the competent authority has served a notice of its intention of treating him as the principal officer thereof.

(5) If any person who is liable to file a statement under this section fails to file the statement within the period within which it

has to be filed, the competent authority, may obtain necessary information In such manner as it thinks fit.

9. A perusal of the records would show that returns were not filed before the authorities. Therefore, as per the information collected by the competent authorities, draft statement under Section 7(2) of the Act was sent to one Ramasamy on 14.08.1987 as his name was found in the revenue records. Subsequently, all the communications were sent to the said Ramasamy. As per Section 7(1) of the Act, it is the duty of the land owner or interested persons to file returns. If the holder of the land has not filed returns under Section 7 (1) of the Act, the competent authority after collecting information has to prepare a draft statement under Section 7 (2) of the Act and send the notice alongwith draft statement under Section 9(1) and 9(4) of the Act. In this case, the original owner did not file any return under Section 7(1) of the Act. The draft statement was sent to one Ramasamy. The said Ramasamy also replied to the letter stating that his representative will appear before the authority with all relevant documents. The competent authority was under the impression that Thiru.Ramasamy was the owner of the land and he was not interested to proceed further. The only contention raised by the respondents is that the original land owners are Alagiri Ammal and Veerabadran and notices were not served on them.

10. The respondents have not shown any document viz., chitta, adangal etc. to show the name of any other landowner as on the date of commencement the Act. Since, they are claiming that Alagiri Ammal and Veerabadran were the owners, documents should have been produced to prove the contention. However, except the copy of the sale deed they have not produced any revenue records to show that as on the date of commencement of the Act they were all the owners of the land and they had filed returns or their land was within the definition of "exempted land".

11. In this case, as stated earlier from 1984 to 2004 during the currency of the land ceiling Act, many persons purchased the land in small sizes. As per Section 2(l) of the Act, they are not interested persons and no notice is necessary. The subsequent purchasers ought to have impleaded the original owners or their vendors. If they were impleaded, it would be possible for them to say as to whether they filed any return. In the absence of original owners the issue cannot be decided. Further, this Court cannot conduct a roving enquiry as to who are all the owners of the land on the date of commencement of the Act, in the absence of revenue records or returns filed by the owner or holder or interested persons.

12. The acquired land was found vacant and no one filed return under Section 7(1) of the Act. As per the revenue

records one Ramasamy was the owner of the land. He submitted a letter to the third respondent stating that he received the notice and applied for copy of Adangal, and after obtaining copy of the adangal his representative by name V.Ranganathan will appear in the office for enquiry alongwith relevant documents.

13. Challenging the proceedings dated 25.04.1991, the respondents herein filed a writ petition in WP.No.16690 of 2010 only during 2001, stating that no notice was served on them or on the erstwhile owners and possession could not have been taken from the erstwhile owners.

14. It is to be noted that after commencement of the Act alleged original owners have not filed returns and the respondents have not stated as to why they have not filed any returns before the competent authority. It is seen from the information gathered from draft statement under Section 7(2) of the Act, one Ramasamy was shown as owner of the land in SF.No.201/2 to an extent of 4.51acres. The respondents have not produced any records to prove their contentions. Notice under Section 7(2) of the Act was served on Thiru Ramasamy and he has acknowledged the notice and also sought time for producing the relevant documents. The said Ramasamy did not deny anything about the ownership of the land. Subsequently, draft statement under Section 9(4) was received by the said Ramasamy. Thereafter, Notice under Section 9(5) was served. The final statement under Section 10(1) was also received by said Ramasamy.

15. The first appellant rejected the request of the respondents vide proceedings dated 29.08.2006 and given an option to submit the petition to the authorities as per G.O.No.649 dated 29.07.1998 to regularize the sale. But they have not utilized the opportunity to regularize their title. Since, the sale deed is hit by Section 6 of the Principal Act, as their vendor has no title on the date of sale, they are not entitled to patta. In view of the above, we set aside the order dated 25.04.2012 in WP.No.16690 of 2010. The writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/--
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To
1.The Revenue Secretary
Revenue Department
Secretariat, Chennai-9.

2.The Special Commissioner and Commissioner,
Urban Land Ceiling and Urban Land Tax
Chepauk, Chennai-5

3.The Assistant Commissioner,
Urban Land Tax,
Collector's Compound
Coimbatore - 641 018.

+2cc to Mr.G.Ponnambalathiyagarajan, Advocate SR.No.41257

RV(CO)
sm:17.7.2018

WA.No.5 of 2017