

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 29.10.2018

Orders Pronounced on : 02.11.2018

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

W.P.No.20475 of 2018
and
W.M.P.No.24059 of 2018

R.Rajeshwari

.. Petitioner

Vs.

1. The Special Commissioner,
Commissioner for Urban Land Ceiling and Tax,
Chepauk, Chennai-5.
2. The Assistant Commissioner,
Urban Land Tax at Poonamallee,
No.5, Sannathi Street,
Poonamallee,
Chennai-600 056.
3. The Tahsildar,
Office of the Tahsildar,
Maduravoyal, Chennai.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to decide and dispose of the regularisation application dated 11.02.2008 preferred by the petitioner's predecessor-in-title, by name Tmt.G.Ponnazhagu in a time bound manner in accordance with law and till such time of disposal, restraining the respondents, their men, agents and servants from in any manner interfering with the petitioner's peaceful possession and enjoyment of the land and superstructures along with its basic and essential amenities in Nethaji Nagar measuring an extent of 2370 Sq.Ft. comprised in S.No.269/4, New S.No.269/4A2 in Maduravoyal Village, Ambattur Taluk, Tiruvallur District.

For petitioner : Ms.Shabnam for Ms.M.Kaviyarasi
For respondents: Mr.N.Manikandan, Govt. Advocate

ORDER

R.SUBBIAH, J

The present Writ Petition is filed for issuance of a Writ of Mandamus to direct the respondents to decide and dispose of the regularisation application dated 11.02.2008 preferred by the petitioner's predecessor-in-title, by name Tmt.G.Ponnazhagu in a time bound manner in accordance with law and till such time of disposal, restraining the respondents, their men, agents and servants from in any manner interfering with the petitioner's peaceful possession and enjoyment of the land and superstructures along with its basic and essential amenities in Nethaji Nagar measuring an extent of 2370 Sq.Ft. comprised in S.No.269/4, New S.No.269/4A2 in Maduravoyal Village, Ambattur Taluk, Tiruvallur District.

2. The case of the petitioner as culled out from the affidavit filed in support of the Writ Petition, is as follows:

(a) The petitioner purchased the abovesaid property from one Mrs.G.Ponnazhagu for valid consideration, vide Registered sale deed bearing Document No.1114/2009, dated 23.03.2009, registered with the Sub-Registrar, Virugambakkam. The vendor G.Ponnazhagu purchased the above property from Thiru.A.Nallakaruppa Nadar, vide sale deed dated 28.08.2002. The property purchased by the petitioner was originally forming part of larger extent of 1.18 acres and 74 cents respectively owned by one Rathina Thambiran and his son Thiyagaraja Thambiran and they have purchased the same, vide registered sale deed dated 09.07.1944 and sale deed dated 15.05.1958 respectively. After the death of their father Rathina Thambiran, his sons orally partitioned the entire property belonging to the family among themselves. After partition, one of the legal heirs, by virtue of his ownership and by virtue of Power of Attorney given to him by the other legal heirs, formed a lay-out in the name of Nethaji Nagar in respect of the entire extent in S.No.269/4 and sold the plots to third party individuals for valuable consideration.

(b) There were earlier sale transactions of different portions of the property comprised in Survey No.269/4 and the sale transactions were through (i) Registered sale deed, dated 21.02.1985 executed by Thiyagaraja Thambiran, son of Rathina Thambiran through his Power Agent in favour of Mrs.Vasanthi, (ii) Registered sale deed dated 21.05.1986 executed by the legal heirs of Rathina Thambiran in favour of Mrs.S.Nirmala, (iii) Registered sale deed dated 08.03.1993 executed by Mrs.S.Nirmala in favour of Thiru.A.Nallakaruppu Nadar, (iv) Registered sale deed dated 13.10.1999 executed by Mrs.Vasanthi in favour of

Tmt.G.Ponnazhagu, (v) Registered sale deed dated 28.08.2002 executed by A.Nallakaruppu Nadar through his Power Agent in favour of Tmt.K.Parvathi, (vi) Registered sale deed dated 28.08.2002 executed by A.Nallakaruppu Nadar through his Power Agent in favour of Tmt.G.Ponnazhagu, (vii) Registered sale deed dated 23.03.2009 executed by Tmt.K.Parvathi in favour of Tmt.G.Minamballe and (viii) Registered sale deed dated 23.03.2009 executed by Tmt.G.Ponnazhagu in favour of Tmt.R.Rajeshwari who is the petitioner herein and few other sale transaction particulars which are not available with the petitioner.

(c) After purchase of the property by the individuals, the Revenue Records were mutated in the name of those individuals and the plots were allotted sub-division survey numbers and the individual owners obtained patta and chitta in their name and the individual purchasers have put up construction for their residential use in the respective plots and they have been in possession and enjoyment of the same by assessing it to Municipal Tax and by regularly paying the same and by obtaining Electricity Service Connection, Family Card, Aadhar Card, etc. The vacant land purchased by the petitioner was allotted to the employees numbering 19 in the petitioner's company. The employees, on the basis of the permission and licence given to them by the petitioner, have put up their own superstructures for the residential purpose and have been in possession and enjoyment of the same in the same manner as detailed above. The original owners as well as the subsequent purchasers have been in continuous and uninterrupted possession and enjoyment of the property for decades and was at no point of time dispossessed by anyone.

(d) The second respondent passed an order under Section 9(5) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act in his proceedings on 28.02.1990 in Na.Ka.3398/89-D, thereby determined the vacant land of 5800 Square Meter in Survey No.269/4 as excess in the hands of Thiagaraja Thambiran and by allowing 500 Square Meters as an entitlement area to be held by him. The impugned notice reveals that Section 9(4) notice and Section 9(1) Notification had been sent on 22.07.1989 and Section 9(5) order was served on 08.02.1990 by affixture only to the land owner, by name Thiagaraja Thambiran. Much before the proceedings initiated by the second respondent, there were sale transactions, whereas no notice was served on the subsequent purchasers to enable them to appear for the enquiry and to have their say with regard to excess land, if any. As such, neither the land owner nor any person from the land owner's side or the subsequent purchasers, appeared for the enquiry and the second respondent passed an ex-parte order under Section 9(5) of the said Act in the name of Thiagaraja Thambiran and caused the order to be sent to the said Thiagaraja Thambiran.

(e) The original owner of the plot purchased by the

petitioner, was the purchaser of a portion of the land, vide registered sale transactions effected during 1985-86, which is much before the proceedings of the second respondent, who initiated the same during 1990 under the Tamil Nadu Urban Land (Ceiling and Regulation) Act. As the petitioner's original predecessor-in-title was not served with any notice or any order, there was no occasion or opportunity to appear for the enquiry and to have a say in that regard and to challenge the correctness of the ex-parte order passed under Section 9(5) by the second respondent. In view of the same, both the original purchaser from Thambiran family and the subsequent purchasers had, without any knowledge about the urban land ceiling proceedings, effected the sale transactions. Thus, all the subsequent purchasers including the petitioner's vendor Tmt.G.Ponnazhagu and the petitioner are innocent and bona-fide purchasers.

(f) The petitioner's vendor Tmt.G.Ponnazhagu purchased an extent of 2400 Sq.Ft. in Plot No.5 in Nethaji Nagar, comprised in S.No.269/4, vide registered sale deed dated 13.10.1999 executed by Tmt.R.Vasanthi. The said Tmt.G.Ponnazhagu purchased an extent of 2370 Sq.Ft. in Nethaji Nagar in S.No.269/4, vide registered sale deed dated 28.08.2002 executed by Thiru.A.Nallakaruppa Nadar through his Power Agent. The vendors of Tmt.G.Ponnazhagu, Tmt.R.Vasanthi and Thiru.A.Nallakaruppa Nadar purchased the property from Thiyagaraja Thambiran through his Power Agent and from one Mrs.Nirmala, vide separate sale deeds dated 21.02.1985 and 08.03.1993 respectively. Tmt.Nirmala purchased the property from Ranganatha Thambiran (brother of Thiyagaraja Thambiran) and his son, vide separate sale deed dated 21.05.1986. Thus, the total extent of land purchased by Tmt.G.Ponnazhagu under the above two sale deeds dated 13.10.1999 and 28.08.2002 was 4770 Sq.Ft. (2400 + 2370 Sq.Ft) and the petitioner's vendor was an innocent purchaser on the dates of her purchase on 13.10.1999 and 28.08.2002. However, when she approached the second respondent after her purchase, they advised her to regularise the entire extent of land measuring 4770 Sq.Ft purchased by her, vide two sale deeds, dated 13.10.1999 and 28.08.2002 under Innocent Purchasers Scheme, vide Government Order passed by the Government in G.O.Ms.No.649, Revenue Department, dated 29.07.1998. Subsequently, the benefits under the said G.O. were extended under G.O.Ms.No.555, dated 26.09.2008.

(g) Accordingly, the predecessor-in-title of the petitioner has applied to the second respondent on 11.02.2008 for regularisation of the land purchased by her, vide two sale deeds dated 13.10.1999 and 28.08.2002, measuring 4770 Sq.Ft. in Nethaji Nagar, Maduravoyal Village, Ambattur Taluk, Chennai-600 095. The second respondent forwarded the said application dated 11.02.2008 for approval to the first respondent. The first respondent, in his proceedings in Na.Ka.No.12826/2008 (J3),

dated 28.12.2010, directed the second respondent to conduct an enquiry for the purpose of collecting further details. Accordingly, the petitioner's vendor was called upon to attend the enquiry and her vendor attended the enquiry at 3 pm on 14.06.2011 in the second respondent's office and also gave her statement consenting to pay the land cost fixed by the Government under the above G.O. in single instalment.

(h) Thereafter, the petitioner's vendor did not get further communication regarding the status of her application. Pending her application, the petitioner's vendor has retained 2400 Sq.Ft. purchased by her under first sale deed dated 13.10.1999 for herself. The petitioner's vendor sold to the petitioner the land purchased by her under sale deed dated 28.08.2002, measuring 2370 Sq.Ft., vide sale deed dated 23.03.2009. The sale transaction in petitioner's favour was effected much before the receipt of any further communication regarding her application for regularisation of the land. The petitioner's vendor sold the land measuring 2370 Sq.Ft., without knowing the status of her application and without informing the petitioner either about the urban land ceiling proceedings initiated against the petitioner's original vendors and the application for regularisation of the land filed by the petitioner's vendor.

(i) The respondents 1 and 2 have not sent any further communication till date regarding the status of the said application dated 11.02.2008. The application is still pending. In the meantime, the third respondent, treating the petitioner's occupation as encroachment, issued eviction notice dated 19.03.2013 under Section 6 of the Tamil Nadu Land Encroachment Act. The respondents came to the petitioner's house and threatened the petitioner to demolish the house within a month's period, failing which they will forcibly demolish the same. Therefore, the petitioner's vendor and the petitioner challenged the eviction notices and filed W.P.Nos.13934 and 26281 of 2013 praying to quash the impugned notices therein and for restraining the respondents from interfering with the petitioner's possession and enjoyment of the property. Both the writ petitions along with the other two writ petitions were disposed of on 30.10.2013, by directing the writ petitioners to file statutory appeals and this Court also directed the respondents to dispose of the appeals on merits and in accordance with law.

(j) The petitioner accordingly preferred statutory appeals under Section 10(1) of the Tamil Nadu Land Encroachment Act before the competent authority during 2013 and the appeals were filed along with the relevant documents to prove that the petitioner is a bona-fide and innocent purchaser. Pending statutory appeals before the District Collector, Tiruvallur, the third respondent again issued eviction notice dated 22.07.2015 and the same was also challenged by the petitioner in W.P.No.23500 of 2015. Pending the above proceedings, the

statutory appeals were dismissed on 31.07.2015. In view of the same, W.P.No.23500 of 2015 was disposed of on 05.08.2015 by giving liberty to the petitioner to prefer any appeal or revision, as the case may be, against the order dated 31.07.2015. Aggrieved by the dismissal of the petitioner's statutory appeal, the individual owners including the petitioner, jointly filed W.P.No.28575 of 2016 for issuance of a Writ of Declaration for declaring the proceedings of the second respondent in Na.Ka.No.3398/89 D, dated 28.02.1990 determining the land in the hands of original owner Thiagaraja Thambiran as excess and for declaring G.O.Ms.No.251, dated 24.03.1994 allotting the excess land to Help Age India and Tamil Nadu State Federation of Deaf as null and void, inoperative, ultra-vires and unconstitutional and the said W.P.No.28575 of 2016 is still pending before this Court.

(k) During the pendency of statutory appeal filed under Section 10(1) of the Tamil Nadu Land Encroachment Act before the District Collector, Tiruvallur, the petitioner's vendor Tmt.G.Ponnazhagu filed W.P.No.18278 of 2015 for issuance of a Writ of Mandamus to direct the respondents to consider her application for regularisation dated 11.02.2018. Pending W.P.No.18278 of 2015, M.P.No.1 of 2015 was filed for interim injunction restraining the respondents from in any manner interfering with her possession and enjoyment of the land purchased by her under sale deed dated 13.10.1999 measuring 2400 Sq.Ft. in S.No.269/4B in Maduravoyal Village, Ambattur Taluk, Tiruvallur District. It is contended in the said M.P., that the petitioner has been in possession and enjoyment of the land and building in question and the respondents were trying to take forcible physical possession of the same. As prima-facie case has been made out by the writ petitioner, this Court on 25.06.2015, granted an order of status-quo as existing on the date of the order, to be maintained, subject to condition that the writ petitioner shall not create any third party right in respect of the land and building in question. The said W.P.No.18278 of 2015 is still pending.

(l) The application for regularisation of the land, dated 11.02.2008 filed by the petitioner's vendor is in respect of the entire extent of 4770 Sq.Ft. in S.No.269/4 purchased by her from two different vendors, vide two registered sale deeds, dated 13.10.1999 and 28.08.2002. The enquiry conducted on 14.06.2011 by the second respondent on the application dated 11.02.2008 was as to whether the sale transactions effected on 13.10.1999 and 28.08.2002 by the petitioner's vendor, are bona-fide and as to whether the petitioner's vendor/purchaser was innocent purchaser and the entire enquiry is in respect of the entire extent of 4770 Sq.Ft. covered under both the sale deeds and the extent purchased by the petitioner is covered under one of the sale deeds in the name of the petitioner's vendor. As the regularisation sought by the petitioner's vendor is in respect

of 4770 Sq.Ft. covered under two sale transactions, in the event of any order passed in the application dated 11.02.2008 holding the petitioner's vendor as innocent purchaser, the same shall also be applicable to the petitioner.

(m) As the extent of property purchased by the petitioner's vendor under sale deed dated 28.08.2002, was subsequently sold to the petitioner, the outcome of regularisation, shall be applicable to the extent sold to the petitioner also, as the petitioner has not filed any separate application for regularisation. However, the petitioner undertakes to abide by any condition imposed for regularisation of the land in possession of the petitioner. Though the Writ Petition filed by the petitioner's vendor in W.P.No.18278 of 2015 is for disposing of the application dated 11.02.2008 for regularisation of the entire extent of land measuring 4770 Sq.Ft., covered under two sale deeds dated 13.10.1999 and 28.08.2002, the interim injunction was granted only in respect of 2400 Sq.Ft. purchased by her under sale deed dated 13.10.1999. Therefore, no interim protection was sought for by her in respect of 2370 Sq.Ft. out of 4770 Sq.Ft. in S.No.269/4. The benefit of any order passed in the said W.P. and M.P. is also applicable to the extent of the land and building in the petitioner's possession through the petitioner's employees measuring 2370 Sq.Ft., which is the remaining part of 4770 Sq.Ft. in S.No.269/4, New S.No.269/4A2.

(n) The physical possession of land and building in Nethaji Nagar, Maduravoyal Village, Ambattur Taluk, Tiruvallur District, measuring an extent of 2370 Sq.Ft. comprised in S.No.269/4, New S.No.269/4A2 in Maduravoyal Village, Ambattur Taluk, Tiruvallur District, is with 19 employees of the petitioner's company on the basis of permission and licence given to them by the petitioner. All the said 19 employees have put up residential quarters in the land for their personal occupation. Though the second respondent passed the order under Section 9(5) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, the physical possession of the land was not taken either from the erstwhile owner or from the petitioner's vendor or from the petitioner till date and the abovesaid land and building is exclusively in petitioner's possession and enjoyment.

(o) The respondents have kept quiet till date without taking physical possession and are now trying to take forcible physical possession from the petitioner. The respondents have been attempting to interfere with the petitioner's peaceful possession and enjoyment of land and building to the extent of 2370 Sq.Ft. They have been threatening to disconnect the electricity and water connection of the building in question and if they are allowed to succeed in their attempts, pending disposal of the regularisation application, dated 11.02.2008, the petitioner's right will be seriously prejudiced and the petitioner's employees and their family members including school and college going children, will be put to much sufferings.

While the petitioner is the owner of the land in question, the petitioner's employees are presently residing there and serious harm and damage would be caused to innocent families if the respondents are allowed to free reign.

(p) Since the said regularisation application is with regard to the entire extent of 4770 Sq.Ft., part of which was purchased by the petitioner, vide registered sale deed, any further action for evicting the petitioner is subject to the outcome of the regularisation application, dated 11.02.2008 and any benefit granted to the petitioner's vendor, shall enure to the petitioner's benefit, who is the subsequent purchaser of portion of the same from the petitioner's vendor, that too without any knowledge about the earlier proceedings including the filing of regularisation application, dated 11.02.2008.

(q) On failure of the respondents-authorities to take actual possession of the land and building in question, the proceedings initiated by the respondents-authorities stood repealed under Section 4 of the Repeat Act (Act 20 of 1999) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act and the land did not vest with the State and the State has no authority to make allotment of such land to third parties and to demand eviction of the respective owners of the land.

3. When the Writ Petition is taken up for consideration, learned counsel for the petitioner submitted that the petitioner has filed the present Writ Petition only to direct the respondents to dispose of the regularisation application filed by the petitioner's predecessor-in-title Tmt.G.Ponnazhagu, under Innocent Purchasers Scheme and the said regularisation application may be directed to be disposed of based on Government Order passed by the Government in G.O.Ms.No.649, Revenue Department, dated 29.07.1998. Subsequently, the benefits under the said G.O. was extended under G.O.Ms.No.555, dated 26.09.2008.

4. In the above context, learned counsel for the petitioner invited the attention of this Court to G.O.Ms.No.565, Revenue Department, dated 26.09.2008, wherein it has been pointed out in Clause 2(vi) therein that till the Government passes an order on the regularisation application, those who have purchased the land without being aware of the acquisition, the same will be regularised. In fact, the regularisation application was acknowledged by the respondents, but even after ten years, the respondents have not decided the application.

5. Learned counsel for the petitioner further contended that the ex-parte proceedings, dated 28.02.1990, stating that out of the land in possession of the land owner in 6300 Sq.Ft., 500 Sq.Mt. was allotted for family purpose and the remaining 5800 Sq.Mt. was directed to be acquired under Section 9 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, dated 28.02.1990 and the said ex-parte proceedings, dated 28.02.1990, was

challenged in W.P.No.28575 of 2016, which is still pending. The petitioner purchased the land on 23.03.2009 of an extent of 2370 Sq.Ft. in Survey No.269/4B, New Survey No.269/4A2 and the eviction notices were served with regard to S.No.269/4B alone. The Survey Number allotted to the petitioner by the Government in their patta is 269/4A2, and now it is for the respondents to show as to which Survey Number belongs to whom. Further, the erstwhile owners of the petitioner and the petitioner herself have been in possession continuously and they are not dispossessed till date. Moreover, the petitioner has put up superstructures in the vacant land and there are senior citizens who are employees of the petitioner, who are residing in the said property.

6. Learned counsel for the petitioner further submitted that there is no compensation whatsoever paid to any party and if the respondents counter claim is that the erstwhile owner has challenged the proceedings in that case, then the onus lies on them to show as to when the compensation was paid, and in the event that no compensation was paid, then the proceedings shall stand abated. Further, the petitioner's predecessor-in-title has given representation for regularisation, dated 11.02.2018 and hence, learned counsel for the petitioner prayed that a direction may be issued to the respondents to consider the said representation based on G.O.(Ms).No.565, Revenue Department, dated 26.09.2008 and that the Writ Petition may be allowed.

7. Countering the above submissions, by filing counter affidavit, learned Government Advocate appearing for the respondents submitted that after completion of acquisition proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, an extent of 4300 Sq.Mts. in S.No.269/4B and 1500 Sq.Mts. in S.No.422/2 of Maduravoyal Village, totalling 5800 Sq.Mts., was acquired from the urban land owner Thiru.Thiagaraja Thambiran and the possession of the same was handed over to the Revenue Authorities, namely Firka Revenue Inspector, Maduravoyal Firka on 19.08.1992 and necessary changes were carried out in Taluk Records as Government ULC land. Further, the Government, by G.O.Ms.No.251, Revenue Department, dated 24.03.1994 had allotted 800 Sq.Mts. of land in S.No.269/4B (pt) of Maduravoyal Village to "Help Age India" for establishment of Mobile Medicare Unit, Training-cum-Research and Development Centre, Day Care Centre, Counselling Unit, Gray Skill Bank and Administrative Office and 1500 Sq.Mts. of land in S.No.269/4B(pt) of Maduravoyal Village to the Tamil Nadu Federation of the Deaf for opening of a school for the deaf and dumb children and construction of Administration Block on collection of cost of acquisition + 50% towards service charges, subject to the conditions specified therein.

8. Learned Government Advocate further submitted that as the land value is fixed by the Government, the allottee M/s.Help Age India had remitted the land value of Rs.2,400/- into Government

Account on 11.07.1994 itself and the Tamil Nadu State Federation of the Deaf and Dumb Children had remitted the land value of Rs.4,500/- into Government Account on 06.09.1994. After remitting the land value by the allottees, the Tahsildar, Ambattur had handed over the possession of the land to the said allottees on 23.07.1996 and 17.07.1996 respectively. In view of the above position, the rights over the above lands in question, vested with the above allottees with effect from the date of handing over the possession by the Tahsildar, Ambattur and not with the Government. In fact, the urban land owner Thiru.Thiagaraja Thambiran filed an appeal under Section 33 of the said Act on 13.10.1997 against the publication of Notification in the Government Gazette, dated 20.02.1991 issued under Section 11(3) of the Act, and it was dismissed by the appellate authority in Proc.No.27476/1997 (J1), dated 02.06.1999 as time barred. Further, the urban land owner filed Writ Petition in W.P.No.7124 of 1997 against the notice dated 26.03.1991 under Section 11(5) of the said Act, with a prayer to quash the entire proceedings and this Court dismissed the said Writ Petition on 09.04.2001. Since no further appeal was preferred against the said order dated 09.04.2001 by the land owner before any higher forum in respect of the acquisition, the said order has become final, and it came to an end.

9. Learned Government Advocate further submitted that the petitioner has purchased an extent of 2370 Sq.Ft. during the month of March 2009, which falls in S.No.269/4B(pt) of Maduravoyal Village, which comes in the allotted portion to M/s.Help Age India and M/s.Tamil Nadu State Federation of the Deaf by the Government in G.O.Ms.No.251, Revenue Department, dated 24.03.1994, and hence, the request of the petitioner for regularisation of her purchase, is not acceptable. Furthermore, the purchase of excess vacant land is null and void under Section 6 of the Act, which was already observed by this Court in W.P.Nos.10907 of 1996 and 11180 of 1996 by order dated 04.04.1997, and hence, the petitioner has no locus-standi to file the present Writ Petition.

10. It is the further submission of the learned Government Advocate that the allottee M/s.Tamil Nadu State Federation of Deaf filed a Writ Petition in W.P.No.15200 of 2007 praying to evict the encroachment on their lands. Thus, the rights of the lands belong to allottees only and taking into consideration the above facts, this Court, in its earlier order dated 28.01.2013 in W.P.No.15200 of 2007, directed the Collector, Thiruvallore to take action against the encroachers including the writ petitioner herein and to remove the encroachment within 16 weeks. The petitioner, along with some of the purchasers of the allotted lands, namely Tmt.G.Ponnazhagu, Tmt.V.Pushpa, G.Miknamballee, filed W.P.Nos.26281, 13934 and 13935 of 2013 challenging the eviction notice, dated 27.04.2013 issued by the Tahsildar, Ambattur and this Court had disposed of the said Writ

Petitions by common order dated 30.10.2013, giving liberty to file statutory appeals within a period of two weeks. Accordingly, the writ petitioner herein and others preferred an appeal before the Collector, Thiruvallore, which was dismissed on 31.07.2015 in Order No.B34/16366/97. In the meanwhile, the third respondent issued eviction notice on 22.07.2015 directing the writ petitioners therein to remove encroachment and to hand over the vacant possession within the time stipulated therein.

11. It is further contended by the learned Government Advocate that the petitioner herein along with six other purchasers, have jointly filed a Writ Petition in W.P.No.25875 of 2016 against the acquisition proceedings and the allotment made by the Government in G.O.Ms.No.251, Revenue Department, dated 24.03.1994, and counter affidavit was filed in it and the case is pending before this Court. The vendor of the petitioner, namely Tmt.G.Ponnazhagu also filed a Writ Petition in W.P.No.18278 of 2015, seeking for regularisation of her purchase under innocent purchaser category, which is also pending. At this stage, the petitioner has filed the present Writ Petition seeking for regularisation of her purchase under innocent purchaser category. All actions got completed and the possession of the land(s) in question was handed over to the allottee(s) during 1996 itself, i.e. even before the enactment of the Repeal Act of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, and hence, the provisions of the Repeal Act shall not be made applicable in this case. Therefore, nothing survives in the Writ Petition, as there is no question of considering the representation seeking regularisation. For all the above reasons, learned Government Advocate prayed for dismissal of the Writ Petition.

12. Keeping in mind the above submissions made by the learned counsel appearing for the parties, we have carefully considered the same and also perused the materials available on record.

13. We find from the submissions made by the learned counsel appearing for the parties and on a perusal of the materials available on record, that the present Writ Petition is not the first Writ Petition and earlier, so many legal proceedings were initiated including filing of many Writ Petitions, which were disposed of with directions as stated supra/dismissed as such. Since the possession of the land (s) was handed over to the allottees in the year 1996 itself, at this distant point of time, the question of directing the respondents to consider the said representation, dated 11.02.2008 filed by the predecessor-in-title of the petitioner, for regularisation of the land (s) acquired, does not arise.

14. Hence, we find no merits in the prayer sought for in this Writ Petition, which deserves to be dismissed. Accordingly, the Writ Petition is dismissed. No costs. Consequently, W.M.P. is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

cs

To

1. The Special Commissioner,
Commissioner for Urban Land Ceiling and Tax,
Chepauk, Chennai-5.
2. The Assistant Commissioner,
Urban Land Tax at Poonamallee,
No.5, Sannathi Street,
Poonamallee, Chennai-600 056.
3. The Tahsildar, Office of the Tahsildar,
Maduravoyal, Chennai.

+1cc to Mr.M.Kaviyarasi, Advocate, S.R.No.75804

+1cc to the Government Pleader, S.R.No.76501

W.P.No.20475 of 2018

SS(CO)
GSP(04/12/2018)

सत्यमेव जयते
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