

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 09.10..2018

CORAM
THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.25319 of 2018

M.Suresh

... Petitioner

-Versus-

- 1.The Special Commissioner/Land Reforms
Commissioner,
Chepauk, Chennai 600005.
- 2.The Principal Secretary / Commissioner,
Urban Land Ceiling and Urban Land Tax,
Chepauk, Chennai 600005.
- 3.The Deputy Commissioner,
O/o Deputy Commissioner,
Urban Land Ceiling and Urban Land Tax,
Poonamallee,
Chennai 600056.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent in Na.Ka.No.697/2018/E dated 03.09.2018 and to quash the same and consequently, direct the respondents to receive and consider the petitioner's application for regularization of his plot bearing Nos.14 to 18 covered by sale deeds vide Doc.Nos.4525 & 4526 of 2000 and settled on petitioner under Doc.5312 of 2002 under the category of innocent buyer scheme as per G.O.Ms.565, Revenue Department, dated 26.09.2008.

For Petitioner : Mr.J.Srinivasa Mohan

For Respondents : Mr.M.Elumalai,
Government Advocate
for R1 to R3

ORDER

This writ petition has been filed challenging validity of the order passed by the 3rd respondent dated 03.09.2018 in Na.Ka.No.697/2018/E rejecting the request of the petitioner for regularization of purchase of land bearing plot Nos.14 to 18 which were innocently purchased under sale deeds dated

08.09.2000 by his father and mother respectively and has been settled by them on 18.09.2002 by way of settlement deed vide Doc.No.5312 of 2002.

2. The case of the petitioner, in brief, is that his parents purchased house sites in a Lay-Out named as 'Sree Lakshmi Nagar' in Plot Nos.14 to 18 situate at Thirumullaivoyal Village under two different sale deeds in the year 2000 measuring 3630 square feet and 3240 square feet respectively. Subsequently, his parents settled their property in favour of the petitioner by way of a registered settlement deed. His father died in the year 2006 and his mother died in the year 2015. While so, he came to know that the said lands are covered under Urban Land Ceiling Act. It is the further case of the petitioner that his parents had innocently purchased the vacant house sites in question without knowing the fact that the same were covered under the Urban Land Ceiling Act. On coming to know that the Government of Tamil Nadu has formulated a scheme under G.O.Ms.No.565 dated 26.09.2008 for regularization of the purchase of lands by innocent purchasers. The application submitted by the petitioner on 25.07.2018 for regularization of purchases made by his parents was rejected by the 3rd respondent by order dated 03.09.2018 holding that the purchase made through sale alone can be regularized and not through settlement, partition, etc. It is this order which is now under challenge in this writ petition.

3. The learned counsel for the petitioner submitted that the parents of the petitioner had purchased the house plots in question without knowing the fact that the same were covered under the Land Ceiling Act and subsequently, they had settled the same in favour of their son, the petitioner herein. According to the learned counsel, had the parents of the petitioner been alive, they would have been entitled to the benefit under G.O.Ms.565 dated 26.09.2008 and therefore, petitioner, who stepped into the shoes of his parents through settlement deed is also entitled for the benefit. Further, according to the learned counsel, if the parents of the petitioner had died intestate, being the son, the petitioner would have naturally inherited the property left behind by their parents. Merely for the reason that the transfer was not by way of sale, the petitioner cannot be deprived of the benefit attached to the Government Order. The object of the Government Order is to give benefit to the innocent purchasers. Therefore, according to the learned counsel, the 3rd respondent cannot stand on technicality in the matter of regularization of purchase of the parents of the petitioner who had innocently purchased the property.

4. Per contra, the learned Government Advocate for the respondent contended the G.O.Ms.NO.565 dated 26.09.2008 was issued only to give benefit to the innocent purchasers who had

purchased the lands which were covered under the Land Ceiling Act and in the instant case, the petitioner derived title in respect of the plots in question only through a registered settlement deed executed by his parents and therefore, the petitioner cannot seek the benefit under G.O.Ms.No.565 dated 26.09.2008. The 3rd respondent after having considered the object of the GO had rightly rejected the application of the petitioner which does not require any interference at the hands of this court.

5. I have considered the rival submissions carefully.

6. The Urban Land (Ceiling and Regulation) Act, 1978 was enacted to provide for the imposition of a ceiling on vacant land in urban agglomerations, for the acquisition of such land in excess of the ceiling limit, for regulating the construction of buildings on such land and for matters connected therewith, with a view to preventing the concentration of urban land in the hands of a few persons and speculation and profiteering therein and to bring about an equitable distribution of land in urban agglomerations to sub-serve the common good. Subsequently, in order to safeguard the interest of the innocent purchasers who had purchased the lands without knowing the fact that the lands were covered under the Urban Land Ceiling Act, the Government of Tamil Nadu had issued G.O.Ms.NO.649 dated 29.07.1998. While so, the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 has lost its legal validity in the year 1999 when the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 came into force. After the Repealing Act, another government order in G.O.Ms.565 came to be issued by the State of Tamil Nadu. Under the said G.O. the ceiling of 1 1/2 grounds prescribed in the earlier G.O. had been removed and the Special Commissioner cum Commissioner of Urban Land Ceiling and Urban Land Tax has been given power to regularize the purchase made by the innocent purchaser where purchase of land is below 1 1/2 grounds while the Government has retained the power to regularize the purchase made by the innocent purchaser where purchase of land is above 1 1/2 grounds on payment of land value as fixed by the Government. In the instant case, according to the petitioner, his parents had innocently purchased the house plots in question in the year 2000 and during their life time, they had settled the same in his favour in the year 2002. The request of the petitioner for regularization of purchases was denied merely on the ground that the transfer in the name of the petitioner was not by way of sale and the GO gives power only to regularize purchase of lands by innocent purchaser and it does not provide for regularization of transfer of property by any other means.

7. A careful reading of the Government Order would go to

show that it has been issued only to protect the interests of the innocent purchasers who had/have purchased the lands covered under the Urban Land Ceiling Act, 1978. As already stated above, in the instant case, the parents of the petitioner had purchased the house plots in questing in the year 2000 and they had subsequently settled the same in favour of their own son, the petitioner herein. If the parents of the petitioner had died intestate, the petitioner, who is the son of the deceased parents, is entitled to inherit the property can apply for regularization of land/plot. As already discussed above, the 1st respondent had rejected the application of the petitioner only on the ground that the petitioner had not acquired title by sale. The reason cited by the 1st respondent in his order impugned in this writ petition is untenable as the Government Order contemplates relief to such of those persons, who have purchased small pieces of land being unaware of the fact that the lands were subject matter to Urban Land Ceiling proceedings. In the considered opinion of this court, the parents of the petitioner were not urban land owners, they were, after all, innocent purchasers. It is not the case of the respondents that in order to avoid the acquistiion proceedings under the Urban Land Ceiling Act, the settlement deed came into being. Therefore, the distinction sought to be drawn by the respondent is untenable and has to be rejected.

8. In the light of the foregoing discussion, the impugned order is liable to be set aside and the petitioner is entitled to the relief as sought for in the writ petition.

9. In the result, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the 1st respondent. The 1st respondent is directed to consider the application of the petitioner dated 25.07.2018 for regularization of his plots as per G.O.Ms.No.565 dated 26.09.2008 and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Special Commissioner/Land Reforms
Commissioner,
Chepauk, Chennai 600005.

2.The Principal Secretary / Commissioner,
Urban Land Ceiling and Urban Land Tax,
Chepauk, Chennai 600005.

3.The Deputy Commissioner,
O/o Deputy Commissioner,
Urban Land Ceiling and Urban Land Tax,
Poonamallee,
Chennai 600056.

+lcc to Mr.J.Srinivasa Mohan, Advocate, S.R.No.69960

+lcc to the Government Pleader, S.R.No.70111

W.P.No.25319 of 2018

JP (CO)

rrs 26/10/2018



WEB COPY