

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.12513 of 2015

1.M.P.Rajendran
2.M.G.Sukumaran

... Petitioners

-vs-

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

2.The Principal Commissioner,
Land Reforms,
Ezhilagam Buildings,
Chepauk, Chennai-600 005.

3.The Revenue Divisional Officer,
Ambattur Circle, Ambattur.

4.The Assistant Commissioner,
Urban Land Tax,
Kundrathur and Office at Alandur,
Chennai-600 016.

... Respondents

Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents to grant patta to the petitioners in respect of the land owned by them comprised in Survey Nos.14/2 & 15/3 situated at No.75, Valasaravakkam Village, Ambattur Taluk, Thiruvallur District.

For Petitioners:: Mr.R.Sundar Rajan

For Respondents:: Mr.V.Shanmuga Sundar,
Special Government Pleader

ORDER

The writ petition has been filed seeking a direction to the respondents to grant patta to the petitioners in respect of the land owned by them comprised in Survey Nos.14/2 & 15/3 situated at No.75, Valasaravakkam Village, Ambattur Taluk, Thiruvallur District.

2.Learned counsel appearing for the petitioners would submit that the petitioners are brothers and they are the absolute owners of the property measuring to an extent of 4880 sq.ft. bearing Plot Nos.10 and 11 comprised in Survey Nos.14/2 and 15/3 situated at No.75, Valasaravakkam Village, Ambattur Taluk, Thiruvallur District. They have purchased the above property jointly under two Sale Deeds dated 11.05.2007 registered as document Nos.2701 and 2702 on the file of the Sub Registrar, Virugambakkam. Moreover, the second petitioner and his another brother, namely M.P. Rajendran have purchased piece and parcel of vacant land comprised in Survey Nos.14/2 and 15/3 at Plot No.10 situated at No.75, Valasaravakkam Village, Ambattur Taluk, Thiruvallur District. Therefore, he had applied for patta in respect of the aforesaid plots before the Revenue Divisional Officer, Ambattur. However, the Revenue Divisional Officer had stated that the patta would be issued in favour of the owners of the said properties after they obtaining No Objection Certificate from the concerned Assistant Commissioner to say that there is no Land Ceiling Proceeding pending in respect of the said lands.

3.Referring to an order passed by the Tamil Nadu Land Reforms Special Appellate Tribunal in TRP. No.406 of 1999 dated 05.12.2000 in favour of the vendors of the petitioners, learned counsel appearing for the petitioners argued that when the vendors were not issued with the notice, the entire proceedings have been wrongly initiated under the provisions of the Urban Land Ceiling Act 1978. Finally, the Appellate Tribunal, while allowing the said TRP. No.406 of 1999 as prayed for, has set aside the allotment order dated 01.02.1996 made in G.O. Ms. No.69 Revenue Department in favour of Angeline Royappa, the fourth respondent therein. Consequently, the matter was remanded back to the competent authority, namely, Urban Land Ceiling, Kundrathur to proceed under Sections 9 to 11 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act of 1978 in the names of the petitioners therein as prayed for.

4.Under this background, learned counsel appearing for the petitioners would submit that since the Principal Act 24/1978 was repealed vide Repeal Act 20/1999 on 16.06.1999, the Assistant Commissioner, the fourth respondent herein cannot proceed against the petitioners.

5.It is at this stage, learned Special Government Pleader appearing for the respondents, placing on record an Office Note dated 10.10.2018, would submit that after the order was passed by the Appellate Tribunal in TRP. No.406 of 1999, setting aside the allotment order issued to Angeline Royappa, the entire proceedings were quashed and the matter was remanded back to the competent authority, namely, Urban Land Ceiling, Kundrathur to proceed further under Section 9 to 11 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 in the name of the

petitioners therein. In the meanwhile, since the Principal Act 24/1978 was repealed vide Repeal Act 20 of 1999 on 16.06.1999, the respondents were not able to proceed further.

6.It is relevant to extract the above Office Note dated 10.10.2018 as under:

'Since the Principal Act 24/1978 was repealed vide repeal Act 20/1999 on 16.06.1999, the then Assistant Commissioner could not initiate acquisition proceedings against the writ petitioner Thiru Dhanapal Naicker. Hence the Government Pleader was requested to offer his opinion for the feasibility of filing appeal against the Tribunal order dated 05.12.2000. The Government Pleader has opined that it is not a fit case for filing writ appeal and it has been reported in the reference 2nd cited. Moreover the writ petition filed by the petitioners in W.P. No.12513/2015 is still pending in the Hon'ble High Court of Madras.

The above facts may be reported to Principal Secretary/Commissioner, (ULC & ULT), subject to approval Draft Principal Secretary/Commissioner, (ULC & ULT) Chepauk, Chennai-5 is put up.'

7.A perusal of the above Office Note would show that since the Principal Act 24/1978 was repealed vide Repeal Act 20 of 1999 on 16.06.1999, the then Assistant Commissioner could not initiate acquisition proceedings against the vendors of the petitioners. As the remand order dated 05.12.2000 has been passed by the Tribunal in T.R.P. No. 406/1999 and the Principal Act 24/1978 was repealed vide Repeal Act 20/1999 on 16.06.1999, the entire proceedings pending on the file of the third respondent stood abated. Accordingly, the writ petition stands allowed and the respondents are directed to issue patta to the petitioners within a period of four weeks from the date of receipt of a copy of this order. No costs.

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Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

vga

To

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

2.The Principal Commissioner,
Land Reforms,
Ezhilagam Buildings,
Chepauk, Chennai-600 005.

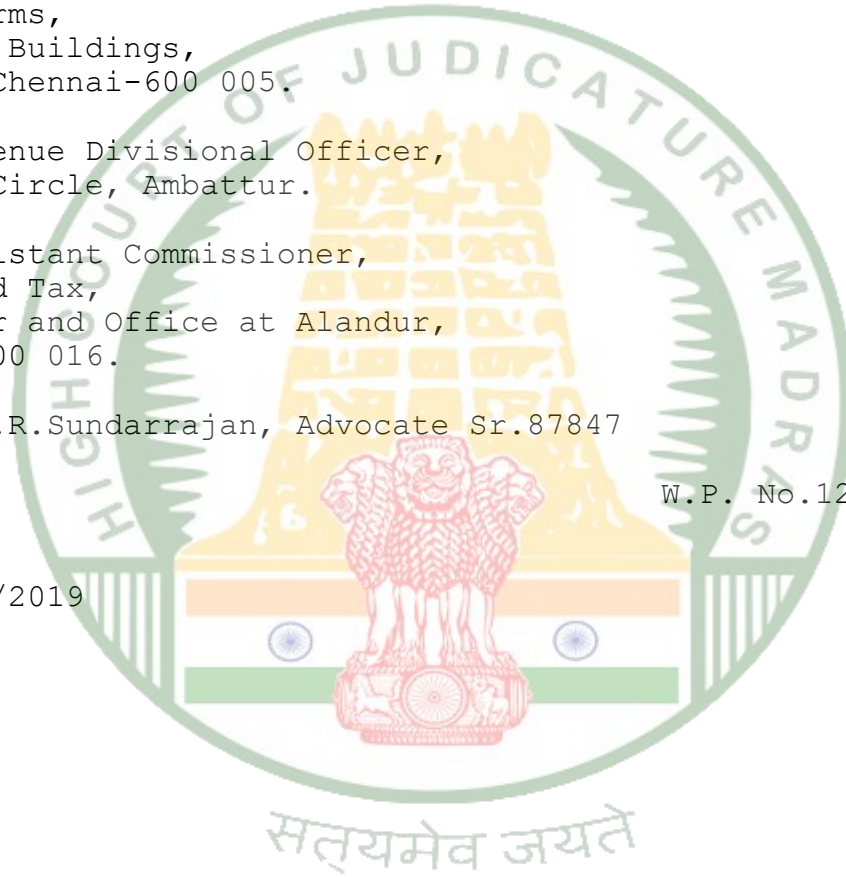
3.The Revenue Divisional Officer,
Ambattur Circle, Ambattur.

4.The Assistant Commissioner,
Urban Land Tax,
Kundrathur and Office at Alandur,
Chennai-600 016.

1cc to Mr.R.Sundarrajan, Advocate Sr.87847

W.P. No.12513 of 2015

srg 19/11/2019



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