



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. 13164 of 2008

and

M.P. 3 of 2008

1. T.Balasubramanian
2. K.Sivagami
3. S.Balasubramaniam
4. S.Jayalakshmi
5. K.Subramaniam

Petitioners 1 to 5 above
are represented by their
Power Agent Mr.K.K.Shanmugam

... Petitioners

Versus

1. The Government of Tamil Nadu,
rep. by its Secretary,
Revenue Department,
Fort St. George,
Chennai-600 009.
2. The Tamil Nadu Transport Corporation,
rep.by its Special Commissioner &
Transport Commissioner,
Chepauk,
Chennai-600 005.
3. The Civil Supplies Corporation,
(TASMAC),
rep. by its Managing Director,
3rd Floor, LLA Building,
Anna Salai, Chennai-600 002.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the 1st respondent herein related to the proceedings G.O.Ms.No.143 (Revenue U.L.C. I(2) Department) dated 11.03.2008 assigning the lands comprised in SF



WEB

No.7/3, now 7/3B2, Saravanampatty Village, Coimbatore Taluk and District, measuring an extent of 02.06.5 hectare (20,650 sq.mtr.) out of which 1.03.0 hectare (10,300 sq.mtr) and 1.03.5 hectare (10,350 sq.mtr) in favour of the 2nd and 3rd respondents respectively and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.G.Nagarajan
For Respondent : Mr.J.Ramesh,
Addl. Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order issued by the 1st respondent herein related to the proceedings G.O.Ms. No.143 (Revenue U.L.C. I(2) Department), dated 11.03.2008 assigning the lands comprised in SF No.7/3, now 7/3B2, measuring an extent of 02.06.5 hectare (20,650 sq.mtr) out of 1.03.0 hectare (10,300 sq.mtr) and 1.03.5 hectare (10,350 sq.mtr) in favour of 2nd and 3rd respondents respectively and to quash the same as illegal and without jurisdiction.

2. The case of the petitioner is as follows :-

The petitioners are the permanent residents of Coimbatore and an extent of 9.54 acres comprised in Survey No.7/3, new 7/3 B2, Saravanampatty Village, Coimbatore Taluk was originally owned by late Sundara Swamigal of Gowmara Madalayam, Chinnavedanpatty. The said Sundara Swamigal had prepared an unapproved layout named as "Deiveega Nagar" and sold 154 plots in favour of third parties inclusive of the petitioners herein on various small extents such as 4 cents, 5 cents, etc. right from the beginning of 1976 from the formation of unapproved layout. Actually, the 1st petitioner T.Balasubramanian has purchased an extent of 4 cents, in S.F.No.7/3 now 7/3B2 vide registered Sale deed dated 17.06.1976 and registered as document No.1440/1976 at the Sub-Registrar Office, Gandhipuram, the 2nd petitioner K.Sivagami has purchased an extent of 5.1/4 cents, in S.F.No.7/3 now 7/3B2 vide registered Sale deed dated 03.05.1976 and registered as document No.1066/1976 at the Sub-Registrar Office, Gandhipuram, the 3rd petitioner S.Balasubramaniyam has purchased an extent of 4 cents, in S.F.No.7/3 now 7/3B2 vide registered Sale deed dated 03.05.1976 and registered as document No.1067/1976 at the Sub-Registrar Office, Gandhipuram, the 4th petitioner Mrs.Jayalakshmi has purchased an extent of 4 cents, in S.F.No.7/3 now 7/3B2 vide registered Sale deed dated 31.07.1976 (with pending No.212/76) and registered as document No.3076/1976 at the Sub-Registrar Office, Gandhipuram, and the 5th petitioner K.Subramaniam has purchased an extent of 4 cents, in S.F.No.7/3 now 7/3B2 vide registered Sale deed dated 17.07.1976 and registered as document No.1719/1976 at the Sub-Registrar Office, Gandhipuram at Saravanampatty Village,



Coimbatore Taluk and District respectively. It is an admitted fact that the Assistant Commissioner of Urban Land Tax and Urban Land Ceiling, Coimbatore having found that all these plots were sold prior to the commencement of the Act and different individual owners are in possession and enjoying the lands in question right from the year 1976 onwards. However, the Urban land Ceiling Act was introduced in the year 1978 and the proceedings was initiated by the 1st respondent against the original owner and passed a G.O.Ms.No.143 assigning the aforesaid lands as surplus lands. Challenging the above G.O., the present Writ Petition has been filed.

3. The Deputy Secretary to Government has filed a counter affidavit dated 05.07.2013, in paras 8 and 11 specifically stated as follows :-

"8. With regard to the averments contained in para 3 of the affidavit, it is submitted that the order passed under Sec.9(5) of the Act by the competent authority/Assistant Commissioner, Urban Land Tax, Coimbatore already shows that the sales made prior to 03.08.1976 was not taken into account and the said contention is unacceptable. The 96 plots sold out before 03.08.1976 includes the portion purchased by the writ petitioners mentioned in Sl. Nos.1,2,3 & 5 have been excluded from the acquisition proceedings and hence, they have no locus standi to file this Writ Petition.

11. With regard to the averments contained in paragraphs 6 & 7 of the affidavit, it is submitted that the contentions of the petitioners are not correct. The plots sold out prior to 03.08.1976 inclusive of writ petitioners plots (except Tmt. Jayalakshmi) have been excluded in the acquisition proceedings. All the objections raised by the petitioners were already considered and the action taken by the competent authority/Assistant Commissioner (Urban Land Tax), Coimbatore is as per the provisions of the Act."

4. In the above said paragraphs, they have specifically stated that 96 plots including the portion purchased by the Writ Petitioner mentioned in Sl.Nos.1 to 3 and 5 have been excluded in the acquisition proceedings. Hence, there is no threat for acquisition under Urban Land Ceiling proceedings. The said contention was confirmed in para 11 also. Further, in para 12, it has been specifically stated as follows:-

"12. With regard to the averments contained in paragraphs 8 of the affidavit, it is submitted that the contentions of the petitioners are not correct. Out of the total holdings of 38,607 sq.mts. In SF No.7/3 of Saravanampatti village family entitlement of 1500 sq.mts. Was given and from the balance of 37,107



WEB COPY

sq.mts., the sales effects prior to 03.08.1976 measuring 16,490 sq.mts., was deducted and the balance of 20,617 sq.mts., only was acquired as excess vacant land under Sec.9 to 11 of the Act. The petitioners have contended to quash the proceedings of the Assistant Commissioner, Urban Land Tax, Coimbatore dated 11.11.1986 and Special Commissioner and Commissioner of Land Reforms proceedings dated 07.02.2006 as it relates to the inclusion of petitioners land in S.No.7/3 for an extent of 23 ¾ cents. No such proceeding was ordered by the Assistant Commissioner vide dated 11.11.1986. It is a letter addressed to the Director of Urban Land Tax seeking some clarifications. Special Commissioner and Commissioner of Land Reforms letter dated 07.02.2006 is not a proceeding and it is only an endorsement with limited scope. It is an endorsement addressed to the Advocate of the appeal petitioner Thiru G.Palani informing that the appellate authority had become "Functus Officio" after the Tamil Nadu Urban Land (Ceiling and Regulation) (Repeal) Act, 1999 [Tamil Nadu Act 20 of 1999] hereinafter referred to as the "Repeal Act". The petitioner's land purchased before 03.08.1976 has not included in the order under Sec.9 (5) of the Act. Hence, all the actions taken by the competent authority/Assistant Commissioner (Urban Land Tax) Coimbatore are as per the provisions of the Act."

5. In view of the above stand taken by the 1st respondent, there is no apprehension for acquisition of the petitioner's lands. In view of the categorical stand taken by the respondent that the petitioners' lands are not acquired under the Urban Land Ceiling proceedings as excess vacant lands, the statement is recorded and no further adjudication is necessary in the Writ Petition. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpp



To

1. The Secretary to Government,
Government of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.
2. The Special Commissioner &
Transport Commissioner,
Tamil Nadu Transport Corporation,
Chepauk,
Chennai-600 005.
3. The Managing Director,
Civil Supplies Corporation,
(TASMAC),
3rd Floor, LLA Building,
Anna Salai, Chennai-600 002.

+1cc to Mr.G.Nagarajan, Advocate sr.47863
+1cc to Government Pleader sr.48659

W.P. 13164 of 2008
and
M.P. 3 of 2008

sv(co)
nr 20/08/2019