IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM

THE HONOURABLE Mr. JUSTICE T.RAJA

W.P.Nos.3944 & 3948 of 2019

1.G.R.Anand ...1st Petitioner in WP.No.3944 of 2019
2.G.A.Bhuvaneswari ...2nd Petitioner in WP.No.3944 of 2019
3.G.R.Ramesh Prabbhu ...1st Petitioner in WP.No.3948 of 2019
4.R.Lalitha Devi ...2nd Petitioner in WP.No.3948 of 2019

Vs.

1. The State of Tamil Nadu
Rep by its Secretary to Government
Revenue and Disaster Management Department
ULC [1(2)] Wing
Secretariat, Fort St.George
Chennai - 600 009.

2. The Special Commissioner
Commissionerate for Urban Land Ceiling & Urban Land Tax
Chepauk
Chennai - 600 005.

3. The Assistant Commissioner
Urban Land Ceiling and Urban Land Tax
Madhavaram Zone
No.2, Vivek Nagar, Kolathur
Chennai - 600 099. .. Respondents in both WPs

Prayer in WP.No.3944 of 2019 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent in Letter No.37377/ULC-I(2)/2018-I dated 06.12.2018 and to quash the same and consequently directing the respondents to regularize the land, stand in the name of the second petitioner to an extent of ***3600** sq.ft. in Plot Nos.74 and 75 in S.No.45/1A, Mathur Village, Madhavaram Taluk, Chennai Urban Agglomeration under innocent purchaser category in terms of G.O.Ms.No.649 Revenue dated 29.07.1998 and G.O.Ms.No.565 Revenue dated 26.09.2008, within a time frame fixed by this Court.

Prayer in WP.No.3948 of 2019 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the first respondent in Lr.No.27567/ULC-I(2)/2018-I dated 03.12.2018 and to quash the same and consequently directing the respondents to regularize the land, stand in the name of the second petitioner to an extent of 3341 sq.ft. in Plot Nos.89 and 90 in S.No.45/1A, Mathur Village, Madhavaram Taluk, Chennai Urban Agglomeration under innocent purchaser category in terms of G.O.Ms.No.649 Revenue dated 29.07.1998 and G.O.Ms.No.565 Revenue dated 26.09.2008, within a time frame fixed by this Court.

For Petitioners : Mr. G.Sankaran
(in all WPs)

For Respondents : Mr. M.Elumalai
(in all Wps) Government Advocate

COMMON ORDER

Since the issue involved in these writ petitions are one and the same, these petitions are disposed of by a common order. These writ petitions are filed seeking to quash the proceedings of the first respondent dated 03.12.2018 and 06.12.2018 respectively, and to regularise their lands under Innocent Purchaser Category.

2. The petitioners herein are the sons and daughters-in-law of one Thiru.G.S.Ramadoss and at present, they all reside at Door No.2/393/2, Vivekananda Street, Thiruvottiyur, Chennai. According to the petitioners, the property in Survey No.45/1, Mathur Village, Ambattur Taluk (presently Madhavaram Taluk) originally belonged to one Tmt.Pattammal and through subsequent sale, the property was sold to one Thiru.A.George vide registered Document No.274 of 1981, who developed the said land into a layout, and thereafter it was divided into various plots and sold to several persons. The first petitioners in all the writ petitions were stated to have purchased certain extent of lands, in different plots at S.No.45/1A, Mathur Village of Madhavaram Taluk and they are in possession and enjoyment of the same. The petitioners being the members of the same family and due to internal arrangements, the first petitioner in both the writ petitions, have settled a portion of the properties owned by him in favour of his wife through registered deeds, and the details of which is tabulated below :

Name of the Petitioner / WP.No.	Extent of land (in S.No.45/1 of Mathur Village)	Vendor Name	Settlement details
G.R.Anand (1st petitioner in WP. No. 3944/2019	2400 sq.ft. in Plot No.65 4800 sq.ft. in Plot Nos.74 & 75 (Total Extent : 7200 sq.ft.)	Guruvammal (vide Sale Deed No.4906 of 2000 M.Senthil Kumar (vide Sale Deed No.3311 of 2006	Settled an extent of 3600 sq.ft. in Plot Nos.74 & 75 in favour of his wife Mrs.G.A.Bhuvaneswari, vide settlement deed Doc.No.1370 of 2008 dated 13.02.2008.
G.R.Ramesh Prabbhu (1st petitioner in WP. No.3948/2019	4378 sq.ft. in Plot Nos.89 &90	Arvind Shariff (vide Sale Deed No.2144 of 2001	Settled an extent of 3341 sq.ft. in favour of his wife Mrs.R.Lalitha Dhevi vide settlement deed Doc.No.1369 of 2008 dated 13.02.2008.

3. Learned counsel for the petitioners stated that the lands in S.No.45/1, Mathur Village along with other larger extent of lands was originally subjected to Urban Land Ceiling proceedings under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, and that the petitioners and other purchasers had no knowledge of it, and had purchased the property in the said Survey numbers. Thereafter, the Government have taken a policy decision to regularise those lands purchased by the innocent purchasers, for the sale effected during the period 03.08.1976 to 31.12.1994, upon collection of fees from the innocent purchasers, who had no reference about the Urban Land Ceiling proceedings, and accordingly G.O.Ms.No.649 (Revenue Department), dated 29.07.1998, came to be issued by the Government. Subsequently, the Government have extended the period further, to cover the purchase of lands till 26.09.2008, vide G.O.Ms.No.565 (Revenue Department) dated 26.09.2008. Since, time limit has been extended further by the Government till 26.09.2008, to cover the purchases made by the innocent purchasers upto 26.09.2008, and that the petitioners are entitled to the said benefit of land ceiling proceedings, as per G.O.Ms.No.649 dated 29.07.1998 and G.O.Ms.No.565 dated 26.09.2008, the petitioners have submitted independent

applications dated 20.02.2008, in the prescribed format, seeking to regularise their purchase under the Innocent Buyers Category.

4. On receipt of applications from the petitioners, the Assistant Commissioner, Urban Land Ceiling and Urban Land Tax, Madhavaram Zone, Chennai-600 099, the third respondent herein, had issued notices to the petitioners on 19.3.2008 and 20.3.2008 respectively, calling the petitioners herein to appear for enquiry on 11.4.2008 at 11.00 a.m. along with relevant documents. The petitioners have also participated in the enquiry and produced the documents as required by the officials. Thereafter, no response was forthcoming from the respondents. Sometime in the year '2015, the third respondent had issued notice to the petitioners dated 17.02.2015, calling them to appear for personal hearing on 12.03.2015, along with necessary documents, which are required by the second respondent herein, in considering the claim of the petitioner, and the same was duly complied by the petitioners and the documents too were verified by the officials, during enquiry. Thereafter, the respondents were silent for more than 1½ years and in '2016, the third respondent again issued notices dated 16.12.2016 to the petitioners, requiring them to appear in person and to produce certain additional documents, to consider their claim, within 15 days from the date of receipt of said notices. Pursuant to the said notices, the petitioners appeared in person and produced the documents sought by the officials and the said documents were also verified by them. However, no orders were passed by the respondents in regularising the lands, inspite of the above Government Orders were passed as early as '2008.

5. It is also contended by the learned counsel for the petitioners that despite the third respondent repeatedly sending notices and holding enquiries on three occasions, and there is no lapse on the petitioners in attending the enquries as and when called by the respondents, and also they have not defaulted in making the requisite fee as prescribed by the officials concerned, but the respondents have failed to pass any order and hence, the petitioners on an earlier occasion, had approached this Court in W.P.No.14101 to 14105 of 2018, to issue a Mandamus to the respondents to pass appropriate orders, based on the application submitted by the petitioners for regularisation of lands under Innocent Purchaser Category, and this Court also vide order dated 12.06.2018, upon referring to the entire facts and circumstances of the case, as well as the enquiry conducted by the third respondent, granted four weeks time to the Enquiry Officer to submit a report and thereafter, four weeks time was granted to the Government to pass appropriate orders.

6. Pursuant to the order of this Court dated 12.06.2018 in WP.No.14101 of 2018 & batch etc., the first respondent has passed the impugned orders dated 03.12.2018 and 06.12.2018 respectively, stating that the claims made by Mrs.R.Lalitha Devi (2nd petitioner in WP.No.3948/2019) Mrs.G.A.Bhuvaneswari (2nd petitioner in WP.No.3944/2019), cannot be considered, for the reason that they are not coming under the purview of Innocent Buyers Scheme of the Government vide G.O.Ms.No.565 dated 26.09.2008, and the said persons had obtained the property through settlement deed and not through sale.

7. Heard Mr.G.Sankaran, learned counsel appearing for the petitioners and Mr. M.Elumalai, learned Government Advocate appearing for the respondents.

8. The contentions raised by the learned counsel for the petitioners is that of the total extent owned by the first petitioner (in both WPs), a certain portion of land was settled in favour of his wife vide settlement deeds, and in view of the policy decision of the Government to regularize the lands of the innocent purchaser, is only in case of sale/purchase of land and not through any other transactions, it is applicable to all the petitioners, who are none other than the members of the same family and the relationship among the petitioners is husband and wife. It is further contended that the first petitioner (in WP.No.3944 & 3948/2019) had purchased the aforementioned properties in the year '2006 and '2001 respectively, through a sale transaction and that when they were covered under the benefit as contemplated in G.O.Ms.No.649 dated 29.07.1998 and G.O.Ms.No.565 dated 26.09.2008, and their proposal was considered by the Government under the Urban Land Ceiling Act, the proposals submitted by the wives of the first petitioner, (i.e., the second respondent in WP.No.3944 & 3948/2019) were rejected vide impugned orders, is illegal and challenging the same, the petitioners have come forward to file the present writ petition.

9. The learned counsel appearing for the petitioners would submit that a similar issue has been dealt with by this Court in W.P.No.25319 of 2018 [M.Suresh Vs. The Special Commissioner/Land Reforms Commissioner, Chepauk, Chennai & Others] and this Court, has passed an order dated 09.10.2018, wherein it has held that if the innocent purchaser is a father or mother, who had purchased the property during the relevant period i.e., 03.08.1976 to 26.09.2008, as per G.O.Ms.No.649 dated 29.07.1998 and G.O.Ms.No.565 dated 26.09.2008, and the parent being a purchaser, had settled the property to the legal successor by

way of settlement deed, the benefit of these Government Orders should be given to the settlees also. Therefore, the distinction sought to be made by the respondents, in case of the settlor and settlee, in view of the above said G.Os., is without any justification.

10. Following the same, I have also passed an order in WP.No.7777 of 2019, dated 20.03.2019, holding that if the purchase is covered under the above mentioned G.O.Ms. No.649 dated 29.07.1998, mentioning the date of purchase/sale is between 03.08.1976 to 26.09.2008, and another G.O.Ms.No.565 dated 26.09.2008, extending the time limit till 26.09.2008, it is not only applicable to the persons who had purchased the land, but even to the persons in whose favour the innocent purchasers had settled the property, and that the settlee is also entitled to get the benefit of the said Government Orders. Therefore, the respondents are directed to extend the benefit of the "innocent purchaser scheme" as per the above mentioned G.Os to the second petitioners in both the writ petitions viz., (i) Tmt.G.A.Bhuvaneshwari, wife of Thiru.G.R.Anand, (1st petitioner in WP.No.3944/2019) and (ii) Tmr.R.Lalitha Dhevi, wife of Thiru.G.R.Ramesh Prabbhu (1st petitioner in WP.No.3948/2019)

11. Therefore, the request of the petitioners for regularisation of the land in question cannot be denied on the ground that since the transfer of property in the name of the second petitioner was not by way of sale and that as per the aforementioned Government Orders, powers were given to the first respondent only to regularise the lands purchased/sold by the innocent purchasers and not by transfer of property or by any other transactions. Because I could see that the sale/purchase of the land in question has taken place during the relevant period viz., 2000, 2006 and prescribed by the Government, during which time, the lands that were sold/purchased without reference to the Urban Land Ceiling proceedings, are exempted from being acquired by the Government, in view of G.O.Ms. No.649 dated 29.07.1998 and G.O.Ms.No.565 dated 26.09.2008, that came to be passed under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, on collection of requisite charges, and subsequent to it, the settlement has been effected during the said exemption period. Hence, in the considered opinion of this Court, the said settlement effected by the first petitioners in W.P.No.***3948/2019** and 3944/2019, in favour of the second petitioner through settlement deed both dated 13.02.2008, has to be accepted by the respondents.

12. In view of the above, these writ petitions are allowed, setting aside the impugned orders of the first respondent and the respondents are directed to consider and pass orders in accordance with law, by regularizing the lands of the second petitioners herein (in both WPs) viz., Tmt.G.A.Bhuvaneshwari, wife of Thiru.G.R.Anand, having an extent of 3600 sq.ft. in Plot Nos.74 & 75 in S.No.45/1A, Mathur Village, Madhavaram Taluk, Chennai and (ii) Tmt.R.Lalitha Dhevi, having an extent 3341 sq.ft in Plot Nos.89 & 90 in S.No.45/1A, Mathur Village, Madhavaram Taluk, Chennai Urban Agglomeration under "Innocent Purchaser Category" in terms of G.O.Ms.No.649 Revenue dated 29.07.1998 and G.O.Ms.No.565 Revenue dated 26.09.2008, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (Insp.Cell)
Dated:04/06/2019

*Modified as per order of this Court
dated 01.08.2019 made in WMP No.16976/2019
in W.P.No.3944 of 2019.
Sd/-
Assistant Registrar(Insp.Cell)
Dated:07/08/2019

//True Copy//

Sub Assistant Registrar

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To:

1. The Secretary to Government,
   The State of Tamil Nadu
   Revenue and Disaster
   Management Department
   ULC [1(2)] Wing
   Secretariat, Fort St.George
   Chennai - 600 009.

To be substituted to the order already despatched on 06/06/2019

2. The Special Commissioner
   Commissionerate for Urban Land
   Ceiling & Urban Land Tax
   Chepauk
   Chennai - 600 005.

3. The Assistant Commissioner
Urban Land Ceiling and Urban Land Tax
Madhavaram Zone
No.2, Vivek Nagar, Kolathur
Chennai - 600 099.

+5 cc to Mr.G.Sankaran, Advocate, S.R.No.66431 & 65726
+1cc to the Government Pleader Sr.66345

WP. No.3944 & 3948 of 2019

KAN(CO)
SSM(04/06/2019).

Srg 13/08/2019