IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2019

CORAM

THE HONOURABLE Mr. JUSTICE T.RAJA

W.P.No.4982 of 2019

C.Saraswathi .. Petitioner

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

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.37379/ULC-I(2)/2016-1 dated 07.12.2018 and to quash the same and consequently directing the respondents to regularize the land, stands in the name of the petitioner to an extent of 2400 sq.ft. in Plot No.63 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 Petitioner : Mr. G.Sankaran

For Respondents : Mr. M.Elumalai
Government Advocate

ORDER

According to the petitioner, the land in S.No.45/1 of 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 mother of the petitioner namely Tmr.G.R.Radha Bai purchased a land having an extent of 1200 sq.ft. from her vendor Tr.A.George vide registered sale deed document No.1293 of 1981, and that apart, she also purchased another extent of 1200 sq.ft. of land (adjoining land) in Plot No.63 from one Tmt.R.Latha, through a registered sale deed bearing Document No1334 of 1994 on 09.08.2000. Therefore, the petitioner's mother was in possession and enjoyment of total extent of 2400 sq.ft. of land in S.No.45/1A, Mathur Village of Madhavaram Taluk. On 29.01.2008, vide settlement deed No.878 of 2008, the said property was transferred in the petitioner's name and thereafter, she has been in possession and enjoyment of the property, wherein she had constructed a residential house.

2. Learned counsel for the petitioner 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 petitioner 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 petitioner is 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 petitioner has submitted an application dated 20.02.2008, in the prescribed format, seeking to regularise the purchase under the Innocent Buyers Category.

3. On receipt of application from the petitioner, the Assistant Commissioner, Urban Land Ceiling and Urban Land Tax, Madhavaram Zone, Chennai-600 099, the third respondent herein, had issued notice dated 19.03.2008, to the petitioner, calling the petitioner to appear for enquiry on 11.4.2008 at 11.00 a.m. along with relevant documents. The petitioner also participated in the enquiry and produced the documents as required by the officials, and she had also given in writing that she agreed to pay the amount fixed by the Government. Thereafter, no response was forthcoming from the respondents. Sometime in the year '2015, the third respondent had issued notice dated 23.04.2015 to the petitioner, calling her to appear for personal hearing on 07.05.2015, along with necessary documents, which are required to consider the claim of the petitioner, and the same was duly complied by the petitioner and the documents too were verified by the officials, during enquiry. However, no orders were passed by the respondents in regularising the lands, inspite of the above Government Orders passed as early as '2008.

4. It is also contended by the learned counsel for the petitioner that despite the third respondent repeatedly sending notices and holding enquiries on two occasions, and there is no lapse on the petitioner in attending the enquries as and when called by the respondents, and also she has also consented to pay the amount determined by the Government, the respondents have failed to pass any orders and hence, the petitioner on an earlier occasion, had approached this Court in W.P.No.14104 of 2018, to issue a Mandamus to the respondents to pass appropriate orders, based on the application submitted by the petitioner for regularisation of lands under Innocent Purchaser Category, and this Court 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.

5. Pursuant to the order of this Court dated 12.06.2018 in WP.No.14101 of 2018 & batch etc., the first respondent vide letter No.37379/ULC-I(2)/2016-I dated 07.12.2019, by referring to G.O.Ms.No.565 dated 26.09.2008, has rejected the claim made by petitioner stating that it cannot be considered, for the reason that her request is not falling under the purview of Innocent Buyers Scheme of the Government vide G.O.Ms.No.565 dated 26.09.2008, and that she had obtained the property through settlement deed and not through sale.

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

7. The contention now raised by the petitioner is that admittedly, a total extent of 2400 sq.ft. in Plot No.63 in S.No.45/1A, Mathur Village of Madhavaram Taluk, was purchased by the mother of the petitioner through two sale transactions from her vendor vide registered sale deeds bearing Document No.1293 of 1981 and Document No.1334 of 1994, and the entire extent of the said property was settled in her favour by her mother by way of settlement deed bearing Document No.878 of 2008, on 31.01.2008, and in view of the policy decision of the Government to regularize the lands of the innocent purchaser, whether it is in case of sale/purchase of land or settlement of the same, the G.O.Ms. Nos.649 & 565 are applicable to such purchaser and settlee and as such, it is applicable to the petitioner herein, who is none other than the legal heir/daughter of Tmt. G.R.Radha Bai, who is entitled to the benefit Innocent Purchaser as contemplated in G.O.Ms.No.649 dated 29.07.1998 and G.O.Ms.No.565 dated 26.09.2008. In view of the above, the impugned order dated 07.12.2018 in Letter No.37379/ULC-I(2)/2016-1, is illegal and challenging the same, the petitioner has come forward to file the present writ petition.

8. The learned counsel appearing for the petitioner 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.

9. 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 petitioner herein, viz., Tmt.C.Saraswathi, daughter of Tmt.G.R.Radha Bai.

10. In the light of the above, the request of the petitioner for regularisation of the land in question cannot be denied on the ground that since the transfer of property in the name of the petitioner was not by way of sale, and 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. It is seen that the sale/purchase of the land in question has taken place during the relevant period 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, 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 G.R.Radha Bai, in favour of her daughter, the petitioner herein, vide settlement deed dated 31.01.2008, has to be accepted by the respondents.

11. In that view of the matter, this writ petition is allowed, setting aside the impugned order and the respondents are directed to consider and pass orders in accordance with law, by regularizing the lands of the petitioner herein viz., Tmt.C.Saraswathi, having an extent 2400 sq.ft. in Plot No.63 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)

//True Copy//

ds Sub Assistant Registrar

To:

1. The Secretary to Government,
   The State of Tamil Nadu
   Revenue and Disaster Management Department
   ULC [1(2)] Wing
   Secretariat, Fort St.George
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   No.2, Vivek Nagar, Kolathur
   Chennai - 600 099.

+4 ccs to Mr.*, Advocate, S.R.No.30211 and 30286

WP. No.4982 of 2019

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