

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.7777 of 2019

G.Manoharan

.. Petitioner

-vs-

State of Tamil Nadu,
represented by its
Principal Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Fort St. George,
Chennai-600 009. .. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus to call for the connected records of the respondent herein relating to the letter No.34766/ULC/I(2)/2016 dated 12.11.2018 and quash the same as arbitrary and legally unsustainable so far as the petitioner is concerned and direct the respondent herein to grant consequential benefits to the petitioner as was done in the case of Mrs.Deepa and Mrs.Sangeetha within a period of four weeks time.

For Petitioner in person : Mr.G.Manoharan

For respondent : Mr.K.Ravikumar,
Additional Government Pleader

ORDER

The writ petition has been filed by the petitioner/party in person challenging the letter No.34766/ULC/I(2)/2016 dated 12.11.2018 issued by the respondent and seeking a direction to the respondent herein to grant him consequential benefits within a period of four weeks time.

2.According to the petitioner/party in person, the land measuring to an extent of 3081 sq.ft. in Sl.No.225/8 situated at Plot No.48, Ravanan Nagar, Madipakkam village, has been erroneously notified as an excess land under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 and

the Government have formulated a scheme, namely, Innocent Purchaser Scheme, under which the lands will be conveyed back to the land owners on payment of certain amount. According to him, his claim to regularise the land under the said scheme has been withheld by the Government stating that the petitioner has got the land through Settlement Deed from his mother and that the settlement deeds are not recognised under the scheme of innocent purchaser.

3.It is the claim of the petitioner that the petitioner's mother one G.Jayalakshmi, wife of Sri A.Gangatharan, residing at Block No.42, Door No.282, 10th Cross Street, T.P.Chatram, Kilpauk, Chennai-10, has purchased the above land, which has been subsequently settled by his mother in favour of the petitioner vide registered Settlement Deed dated 07.09.1988 bearing Document No.3220 of 1988. Therefore, the petitioner was entitled to make a claim for regularisation on his land under the said scheme, but, the respondent has passed an order negating the request of the petitioner on the ground that the scheme is applicable only to the innocent purchasers. Since the petitioner is only a Settlee under the Settlement Deed, he is not coming under the purview of G.O. Ms. No.565 Revenue Department ULC 1(2) dated 26.09.2008. The petitioner/party in person would submit that the issue has already been covered by several orders passed by this Court stating that after his/her purchase, if any mother or father under the registered Sale Deed settles the said property in favour of his/her children under registered Settlement Deed, the settlee is entitled to the scheme for regularisation.

4.It could be seen from records that the petitioner's mother has originally purchased the land in question under a registered Sale Deed dated 10.02.1982 and thereafter, she settled the property by registered Settlement Deed dated 07.09.1988 bearing Document No.3220/1988. The issue raised in this writ petition is no longer res integra since the same has been decided by this Court vide order dated 09.10.2018 in W.P. No.25319 of 2018. It is relevant to extract para 7 as under:

'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 acquisition 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.'

5. In view of the above settled legal position, this Court is of the view that the benefit of the scheme namely, Innocent Purchaser Scheme, should be given to the petitioner also. Therefore, the impugned order is quashed and the writ petition is allowed. Accordingly, the respondent is directed to consider the case of the petitioner in the light of the G.O. Ms. No.565 Revenue Department ULC I(2) 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

//True Copy//

Sub Assistant Registrar

vga

To

The Principal Secretary to Government,
Revenue and Disaster Management Department,
Secretariat,
Fort St. George,
Chennai-600 009.

+2cc to Mr.G.Manoharan, Party in person, sr.26161
+1cc to Government Pleader sr.26864

W.P.No.7777 of 2019

nr 10/04/2019