

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.05.2019

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.No.14413 of 2019 and
WMP.No.14434 of 2019

V.Palaniammal

... Petitioner

...Vs...

1. The Commissioner
Department of Urban Land Ceiling (ULC)
Ezhilagam, Chempauk,
Chennai-600 005.
2. The Special Tahsildar,
Urban Land Ceiling (ULC),
District Collectorate
State Bank Road,
Gopalapuram, Coimbatore-641 018
3. The Commissioner of Police
Police Department
No.62, Old Post Office Road,
Gopalapuram, Coimbatore-641 018.
4. S.Sreekanth ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to consider the petitioner representation made before the first respondent dated 10.04.2019 and pass orders on merits within a time frame and consequently direct the first respondent to enquire the petitioner's representation regarding the settlement deed vide Doc.No.3814 of 1978 dated 24.11.1978 registered at District Registrar Office, Gopalapuram, Coimbatore under Section 6 of Urban Land Ceiling Act on merits.

For Petitioner : Mr.Silambarasan
Senior Counsel
for Kaavya Silambabban Asso.

For Respondents : Mr.M.Elumalai (R1 to R3)
Government Advocate
Mr.Abrar Mohamed Abdullah (R4)

O R D E R

Mr.M.Elumalai, learned Government Advocate takes notice for the respondents 1 to 3. Mr.I.Abrar Mohamed Abdullah, learned counsel takes notice on behalf of the fourth respondent. By consent of both sides, this Writ Petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition has been filed seeking for a direction to the first respondent to consider the petitioner's representation dated 10.04.2019 and pass orders on merits within a time frame and consequently direct the first respondent to enquire the settlement deed vide Doc.No.3814 of 1978 dated 24.11.1978 registered at District Registrar Office, Gopalapuram, Coimbatore under Section 6 of Urban Land Ceiling Act on merits.

2. The case of the petitioner is that he is the agreement holder with one L.Kumarasamy son of Lakshmana Devar by virtue of the agreement entered on 19.06.2012. The said L.Kumarasamy is appointed by one Late Vijayammal, as representative interest of L.Kumarasamy to execute the sale agreement with the petitioner. But, the said L.Kumarasamy, has not fulfilled his promise and taking advantage of the same the fourth respondent, who is the partner of M/s.Gemini Developers was illegally taking steps to remove the petitioner from the property situated in Old S.No.1853/1B, 1854/1, 1855, 1860/1, New T.S.No.9705, 9706, 9707, 9708 Thiruvalluvar Nagar, Trichy Road, Ramanathapuram Main, Coimbatore and also trying to sell the said property in the name of M/s.Gemini Developers, Coimbatore. Hence, the petitioner filed a suit in O.S.No.825 of 2017. The fourth respondent filed the application on 05.01.2018 to reject the plaint in I.A.No.91 of 2018 and the same was allowed and the suit in O.S.No.825 of 2017 was dismissed. Aggrieved by the same, the petitioner preferred an Appeal in A.S.No.110 of 2018 and the same is pending. Whiles, the fourth respondent filed a suit in O.S.No.1541 of 2015 against one Radhika Sri Hari who is none other than the mother of the fourth respondent and his partnership firm M/s.Gemini developers and obtained a decree in the said suit. Challenging the same, the petitioner filed a suit in O.S.No.117 of 2018 and the fourth respondent was set exparte in the said suit. Thereafter, the fourth respondent filed the application for

restoration and the same is pending. It is further stated that after filing of the suit in O.S.No.117 of 2018, the petitioner came to understand that the fourth respondent endeavoured to create third party interest in the aforesaid property by a settlement deed. The said settlement deed was registered on 24.11.1978 vide No.3814 of 1978. The fourth respondent's father impersonated the above said Late Vijayammal and executed the said settlement deed in favour of them. Earlier late Vijayammal had bequeathed the various properties including the above said schedule property by Will to various others which was registered vide Doc.No.221 of 1979 dated 18.11.1979. The said Will was suppressed by the fourth respondent in all proceedings. As per above said Will, the fourth respondent has no right in the above said property. The petitioner had immediately given a paper publication on 13.10.2018 in Daily Thanthi, Newspaper stating that as per Section 6 of Urban Land Ceiling Act, the said settlement is Null and Void and no one should create any third party interest with the fourth respondent for the schedule property. The said paper publication was not challenged by the fourth respondent. Hence, the petitioner sent a representation to the first respondent dated 10.04.2019 seeking to take action against the fourth respondent and his firm M/s.Gemini Developers regarding the settlement deed during the relevant period when Urban Land Ceiling Act was in force. Since no action has been taken till date, the petitioner has come forward with this writ petition seeking for the aforesaid relief.

3. Though the prayer sought for in this Writ Petition is for a larger relief, the learned counsel appearing on either side would submit that it would suffice if a direction is given to the first respondent to dispose of the representation of the petitioner dated 10.04.2019, within a stipulated period.

4. The learned Government Advocate appearing for the respondents has stated that the first respondent has no objection to consider the application of the petitioner dated 10.04.2019.

5. Considering the facts and circumstances of the case and having regard to the submissions made, without going into the merits of the case, this Court directs the first respondent to pass orders on the representation of the petitioner dated 10.04.2019, on merits and in accordance with law, after issuing notice to the petitioner and also affording due opportunity of hearing to the petitioner as well as the fourth respondent, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

arr/vkr
To

1. The Commissioner
Department of Urban Land Ceiling (ULC)
Ezhilagam, Chepauk,
Chennai-600 005.
2. The Special Tahsildar,
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District Collectorate
State Bank Road,
Gopalapuram, Coimbatore-641 018
3. The Commissioner of Police
Police Department
No.62, Old Post Office Road,
Gopalapuram, Coimbatore-641 018.

+5ccs to M/s.Kaavya Silambabban Asso. , Advocate SR.No. 43864
+1 cc to Government Pleader Sr.No. 44025

सत्यमेव जयते

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A.SK(22/05/2019)

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