

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 11.12.2019  
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.18209, 18214, 18377 of 2017

W.P.No.18209/2017

1. Arumugam
2. Valli

.. Petitioners

-vs-

1. Special Commissioner and Commissioner of Land Reforms,  
(formerly the Director)  
(Urban Land Ceiling and Urban Land Tax,  
Chepauk, Chennai - 600 005.
2. The Assistant Commissioner cum Competent Authority,  
Urban Land Ceiling, Salem  
O/o. The Assistant Commissioner (Urban Land Tax Scheme)  
Chinthamani Commercial Complex, (1<sup>st</sup> Floor),  
12/1, Mettupalayam Main Road,  
North Coimbatore, Coimbatore - 641 002.
3. The Tahsildar,  
Salem (West), Salem

.. Respondents

Prayer in W.P.No.18209 of 2017: Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents particularly the 3<sup>rd</sup> respondent to issue patta in respect of 3052 ½ sq.ft. of our lands (1512 ½ in survey No.157/1R and 1540 sq.ft of Survey No.157/1P of Sivadhapuram Village, Salem Taluk and District within the time frame as may be fixed by this Hon'ble Court.

W.P.No.18214 of 2017

1. N.K. Ramalingam
2. N.V.K. Swaminathan
3. N.V.K. Dhandayudhapani
4. M. Nagarajan

.. Petitioners

-vs-

1. Special Commissioner and Commissioner of Land Reforms,  
(formerly the Director)  
(Urban Land Ceiling and Urban Land Tax,  
Chepauk, Chennai - 600 005.

2. The Assistant Commissioner cum Competent Authority,  
Urban Land Ceiling, Salem  
O/o. The Assistant Commissioner (Urban Land Tax Scheme)  
Chinthamani Commercial Complex, (1<sup>st</sup> Floor),  
12/1, Mettupalayam Main Road,  
North Coimbatore, Coimbatore - 641 002.
3. The Tahsildar,  
Salem (West), Salem .. Respondents

Prayer in W.P.No.18214 of 2017: Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to restore our names as owners of 1.10 acres of land in Survey No.157/1, Sivadhapuram Village, Salem Taluk and District and consequently re-issue patta therefor in our names, consequent upon the order dated 07.06.2011 in W.P.No.8611 of 2004 on the file of this Hon'ble Court and restore our names as the owners of the above said lands in all Revenue records.  
W.P.No.18377 of 2017

Subhashri .. Petitioner

-vs-

1. Special Commissioner and Commissioner of Land Reforms,  
(formerly the Director)  
(Urban Land Ceiling and Urban Land Tax,  
Chepauk, Chennai - 600 005.
2. The Assistant Commissioner cum Competent Authority,  
Urban Land Ceiling, Salem  
O/o. The Assistant Commissioner (Urban Land Tax Scheme)  
Chinthamani Commercial Complex, (1<sup>st</sup> Floor),  
12/1, Mettupalayam Main Road,  
North Coimbatore, Coimbatore - 641 002.
3. The Tahsildar,  
Salem (West), Salem .. Respondents

Prayer in W.P.No.18377 of 2017: Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to restore the petitioner name as owner of 0.16 acres of land in Survey No.157/1F, Sivadhapuram Village, Salem Taluk and District and consequently re-issue patta therefor in the petitioner name, consequent upon the order dated 07.06.2011 in W.P.No.8612 of 2004 on the file of this Hon'ble Court and restore the petitioner name as the owners of the above said lands in all Revenue records.

For Petitioner : Mr.D.Shivakumaran  
[in all W.Ps.]

For Respondents : Ms.A.Sri Jayanthi  
[in all W.Ps.] Special Government Pleader

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ORDER

Heard Mr.D.Shivakumaran, learned counsel appearing for the petitioners and Ms.A.Sri Jayanthi, learned Special Government Pleader appearing for the respondents.

2. With consent of learned counsel on either side, W.P.No. 18214 of 2017 is taken as the lead case.

3. The petitioners have purchased a land from the original owners. Proceedings were initiated by the second respondent under the Provisions of the Tamil Nadu Urban Land (Ceiling and Regulations Act), 1978 (hereinafter referred to as 'the Act') to declare a portion of the land as urban land and to declare the same as excess in the hands of the original owner. The proceedings under the Act was challenged in W.P.Nos. 8610 to 8612 of 2004 and by common order dated 07.06.2011, the proceedings were quashed. The Court called for the original file and on perusal of the same found that no proper procedure was followed to declare the land as excess lands in the hands of the original owners. The operative portion of the order reads as follows:

"7. Originally, the petitioners filed Special Revision Petitions before the Tamil Nadu Land Reforms Special Appellate Tribunal in SRP Nos. 16/2001, 17/2001 and 18/2001. In view of the abolition of the Tribunal, the matters stood transferred to this Court and were renumbered as CRP.Nos. 1923, 1924 and 1925 of 2003. However, a learned Judge of this Court opined that no Civil Revision petition will lie as the officers whose orders under challenge were not a Court but only statutory authorities. Therefore, the CRPs were converted into writ petitions.

8. Neither before the Tribunal nor before this Court, the respondent has filed any counter affidavit. The contentions raised by the petitioners remains uncontroverted. In fact, the petitioners have also filed an additional typed set filed in each of the writ petitions, the petitioners have contended that they were unaward of the proceedings initiated under the ULC Act. Only when they tried to get orders from

the respondent, they found that the respondent's office was disbanded and all the records were shifted to Assistant Commissioner (Land Reforms) Erode. Thereafter, they applied for a certified copy of the order and filed an appeal under Section 33. The lands were continued to be agricultural lands during the aforesaid period. Even for these averments, there has been no reply from the side of the respondent.

9. However, on direction from this Court, the Original file was circulated for perusal by this Court.

10. Mr. D. Shivakumaran, learned counsel for the petitioners submitted that the issue raised in these writ petitions is squarely covered by a judgment of this Court in Prathiba Venkataraman Vs. The Assistant Commissioner and Another reported in CDJ 2009 MHC 468 (W.P.No.6931 of 2000) dated 27.01.2009. This is for the purpose of relying upon the finding that if no notice is given to the original land owner of the person in whose name land stands in the records, then the proceedings are invalid. Even otherwise, the issue raised in these writ petitions viz., that no proper notice was given under Section 9(5) of the Act and the lands were agricultural land and hence not covered by the provisions of the ULC Act and that after the repealing Act, if possession continues to vest with the land owner and not taken by the Government, then the land owners are entitled for benefit under Section 4 of T.N.Act 20 of 1999. In this regard, a reference may be made to the judgment of this Court in G.P.Sarawath and Ors. Vs. Assistant Commissioner cum Competent Authority reported in (2010) 8 MLJ 449. In that case, this Court dealt with the scope of the peaceful possession being taken and referred to the judgment of various decisions of the Supreme Court. It was held that if possession is not taken, the repealing Act will enure to the benefit of the land owners.

11. In view of the above, the petitioners are entitled to succeed. Accordingly, all the three writ petitions will stand allowed and the impugned order stands set aside. No costs."

4. The above order has become final. Much prior to all these proceedings the petitioners had purchased the property from the original owner and the Revenue records have mutated in the name of the petitioners. Despite the same, since proceedings under the Act were initiated and the land were declared as a surplus land,

the Revenue record was muted and the property was shown as Government property.

5. The petitioners therefore approached this Court and filed W.P.17759 of 2014 & etc. for issuance of patta in their names. This Court, after taking note of the direction in W.P.8610 to 8612 of 2004 dated 07.06.2011, disposed of the representation by common order dated 21.12.2015 by directing the Thasildar, Salem to consider the petitioners' application for grant of patta, after verification of all the records and pass orders within eight(8) weeks. The Thasildar understood the direction in a proper manner and has addressed the second respondent on 16.12.2016 to pass necessary orders so that the Revenue records can be restored in the name of the petitioners. However, the second respondent did not take any further action. This was followed by another proceedings of Thasildar dated 19.01.2017 to the second respondent to the same effect. However, no steps were taken by the second respondent and this necessitated the petitioners to approach this Court by filing these writ petitions.

6. The only distinct feature in W.P.No.18209 of 2017 is that the urban land proceedings were quashed by this Court in W.P.No.10553 of 2016 dated 21.04.2016 by following common order in W.P.Nos.8610 to 8612 of 2004 dated 07.02.2011. Other than the above fact, there is no other change of circumstances in the said writ petition. The learned counsel for the petitioners submits that insofar as the petitioners in W.P.No.18209 of 2017 are concerned, they have already remitted the requisite fee for restoration of the patta in their names on 22.12.2016 and receipt has also been issued by the authorities.

7. Considering all these facts, it is evidently clear that the second respondent is unnecessarily dragging on the matter for the reasons best known to him. Hence, this Court is inclined to issue appropriate directions.

In the result the writ petitions are allowed and the second respondent is directed to issue appropriate proceedings and in response to the communications sent by the third respondent Thasildar, Salem in Na.Ka.No.3713/2016/AA2 dated 16.12.2016 and Na.Ka.No.3713/2016/AA2 dated 19.01.2017 within a period of 10 days from the date of receipt of a copy of this order so as to enable the Thasildar to restore the patta/grant patta in the name of the petitioners within a period of six weeks thereafter. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

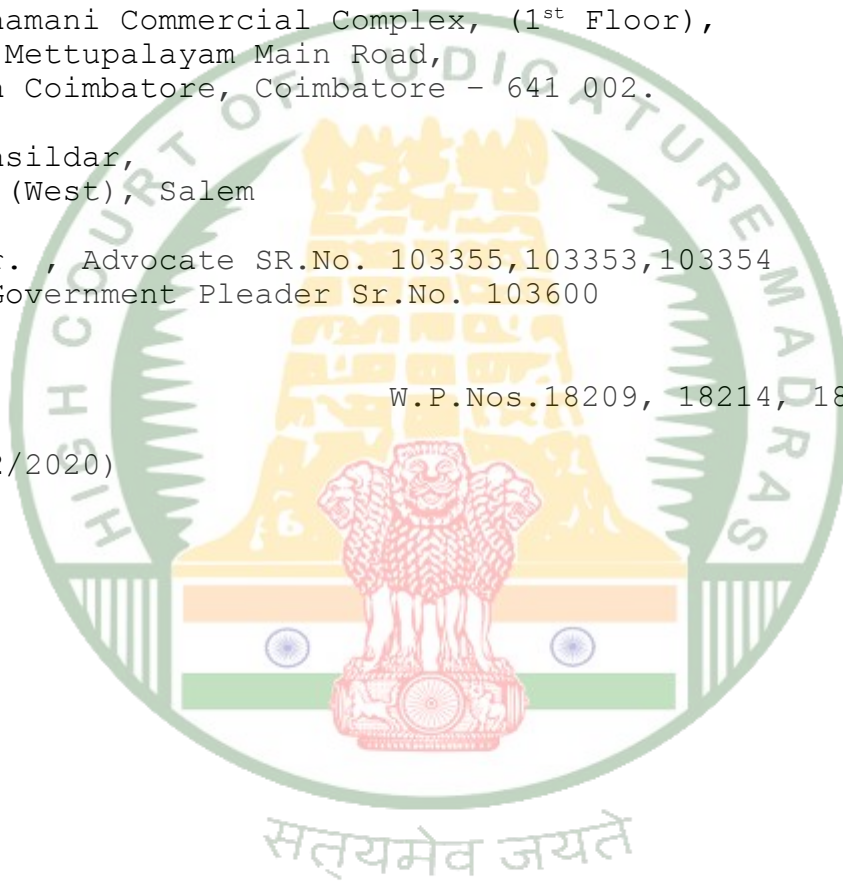
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To

1. Special Commissioner and Commissioner of Land Reforms,  
(formerly the Director)  
(Urban Land Ceiling and Urban Land Tax,  
Chepauk, Chennai - 600 005.
2. The Assistant Commissioner cum Competent Authority,  
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3. The Tahsildar,  
Salem (West), Salem

+1cc to Mr. , Advocate SR.No. 103355,103353,103354  
+1 cc to Government Pleader Sr.No. 103600

W.P.Nos.18209, 18214, 18377 of 2017

A.SK(19/02/2020)



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