

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.31738 of 2018 and
WMP.No.36961 of 2018

1. V.Somasundaram
2. Rathna Somasundaram

... Petitioners

Vs

1. The Special Commissioner and Commissioner
for Urban Land Ceiling and Urban Land Tax,
Chepauk, Chennai-600 005.
2. The Assistant Commissioner,
Urban Land Ceiling,
Ambattur Zone,
No.5, Sannadhi Street,
Poonamallee, Chennai-600 056.
3. The Tahsildar,
Ambattur,
Chennai-600 058.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to consider the representation of the petitioners dated 12.9.2018 requesting for regularising the holding of the petitioners of the plot of land of an extent of 2401 sq.ft. (2465 sq.ft. as per patta) bearing Plot No.1 in Perumal Nagar Layout, comprised in Old Survey No.507/2B, 516/1 and 516/1A, T.S.No.15, Block No.21 of Korattur Village, Ambattur Taluk, Thiruvallur District in terms of the guidelines as set out in the Government Order dated 29.7.1998 under G.O.Ms.No.649 Revenue Department and Government Order dated 26.9.2008 under G.O.Ms.No.565 Revenue Department.

For Petitioners :

Mr.V.G.Suresh Kumar

For Respondents :

Mr.M.Elumalai,
Government Advocate

O R D E R

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the 1st respondent to consider the representation of the petitioners dated 12.9.2018 requesting for regularising the holding of the petitioners of the plot of land of an extent of 2401 sq.ft. (2465 sq.ft. as per patta) bearing Plot No.1 in Perumal Nagar Layout, comprised in Old Survey No.507/2B, 516/1 and 516/1A, T.S.No.15, Block No.21 of Korattur Village, Ambattur Taluk, Thiruvallur District in terms of the guidelines as set out in the Government Order dated 29.7.1998 under G.O.Ms.No.649, Revenue Department and Government Order dated 26.9.2008 under G.O.Ms.No.565 Revenue Department.

2. According to the petitioners, they are the full and absolute owners of the land of an extent of 2401 sq. ft. (2465 sq.ft. as per patta) bearing Plot No.1 in Perumal Nagar Layout, comprised in Old Survey Nos.507/2B, 516/1 and 516/1A, T.S.No.15, Block No.21 of Korattur Village, Ambattur Taluk, Thiruvallur District. It is also the claim of the petitioners that originally the said plot of land formed part of larger extent of lands to an extent of about 0.39.5 ares or 98 cents owned by one Kambara Naicker. After his demise, the lands were owned by his sons, namely, Duraiswamy Naicker and Ramaswamy Naicker. Again, on the demise of Ramaswamy Naicker, his daughter Pattammal and Duraiswamy Naicker continued to hold the possession of the said lands as joint owners. Further, on the demise of Duraiswamy Naicker, the property was enjoyed by his wife Alamelu Ammal and Pattammal. Thereafter, on the demise of Alamelu Ammal, as Duraiswamy Naicker and Alamedlu Ammal did not have any legal heirs, the property devolved on Pattammal and her children Manonmani, Ponnuswamy and Sankaran. Ponnuswamy died unmarried and issueless and the property was continued to be owned by Sankaran and Manonmani jointly. They have also appointed B.Sundaramurthy as their power of attorney agent to develop the lands and sell the same. Finally, the said plot was sold to one Madhubala under a Deed of Sale dated 26.8.1994 registered as Document No.2867 of 1994 on the file of the Sub-Registrar, Villivakkam.

3. Further, according to the petitioners, their Vendor one G.Vidya purchased the property-in-question on 24.6.2002. Thereafter, the petitioners purchased the same on 19.10.2015 from the said G.Vidya. At the time of purchase by the petitioners, patta for the land-in-question was issued by the concerned Tahsildar, Ambattur to their vendor. Therefore, the petitioners came forward to purchase the property on the ground that it was free from all encumbrance. Later on, when the petitioners approached the Tahsildar, Ambattur requesting for transfer of patta in their joint names, they were informed that a portion of the land purchased by them has been classified as

Government Lands in the revenue records. Since the Government had also issued two Government Orders, namely, G.O.Ms.No.649 Revenue Department, dated 29.7.1998 and subsequently, G.O.Ms.No.565, Revenue Department, dated 26.9.2008, giving the benefit of regularisation in favour of the subsequent innocent purchasers who purchased the land without the knowledge of the acquisition of the lands under the Tamil Nadu Urban Land Ceiling Act, the petitioner has given a representation dated 12.09.2018 to the 1st respondent, namely, the Special Commissioner and Commissioner for Urban Land Ceiling and Urban Land Tax, Chepauk, Chennai, for regularisation of the land in question, accepting the regularisation charges as specified in the aforesaid Government Orders. The same has not been considered. Therefore, the petitioners have approached this Court by way of filing the present Writ Petition.

4. When the matter is called, Mr.M.Elumalai, learned Government Advocate appearing for the respondents 1 to 3 submitted that the petitioners have purchased the land in question on 19.10.2015. Therefore, they are not entitled to get the benefit of G.O.Ms.No.565, Revenue Department, dated 26.9.2008 wherein the time limit ends on 26.9.2008.

5. In reply, the learned Counsel for the petitioners submits that it is an admitted case of the petitioners that their vendor G.Vidya has purchased the property on 24.06.2002 that time has been saved by the above said Government Order in G.O.Ms.No.565, Revenue Department, dated 26.9.2008. Therefore, when the petitioners' vendor G.Vidya is entitled to get the benefit of regularisation of the land-in-question by payment of necessary regularisation charges as specified in the aforesaid Government Orders, the petitioners being the subsequent purchasers under a Registered Sale Deed dated 19.10.2015, they are also entitled to get the benefit of regularisation of the land-in-question. If there is any objection that the petitioners cannot make any objection, at least, the petitioners may be given liberty to move an application with their vendor jointly.

6. This Court finds merit in the submission of the learned Counsel for the petitioners for the reason that when the petitioners' vendor G.Vidya is entitled to get the benefit of regularisation of the land-in-question, since she has purchased the land-in-question on 24.6.2002, this Court overruling the objection made by the learned Government Advocate appearing for the respondents that the petitioners cannot maintain any application for regularisation of the plot and that the benefit of the G.O.Ms.No.564, Revenue Department, dated 26.09.2008 cannot be given to the petitioners, hereby directs both the petitioners and their vendor G.Vidya to move a joint

representation on the basis of the aforesaid Government Order. If any such representation is made, the 2nd respondent is directed to consider the same for the simple reason that the petitioners' vendor has purchased the property which is saved by the G.O.Ms.No.564, Revenue Department, dated 26.09.2008, hence the petitioners and their vendor are entitled to get the benefit of regularisation as per the said Government Order.

7. With the above observation and direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

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To

1. The Special Commissioner and Commissioner
for Urban Land Ceiling and Urban Land Tax,
Chepauk, Chennai-600 005.
2. The Assistant Commissioner,
Urban Land Ceiling,
Ambattur Zone,
No.5, Sannadhi Street,
Poonamallee, Chennai-600 056.
3. The Tahsildar,
Ambattur,
Chennai-600 058.

+1cc to Mr.VG.Suresh Kumar, Advocate SR.No.34641

+1cc to Government Pleader SR.No.35303

W.P.No.31738 of 2018

RV(CO)
GMY(27/04/2019)