



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.01.2020
CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

WEB COPY

W.P. (MD) .No.5691 of 2019

A.H.Kaleelur Rahman,
S/o.S.M.Abdul Hameed,
17, Vellalar Street,
West Mogappair, Chennai - 600 037.

Represented through his brother
and Power of Attorney Agent,

A.H.Asgar Ali,
S/o.S.M.Abdul Hameed,
27/25, A-1, 1st Floor, Sathazwar Street,
Mogappair West, Chennai - 600 037.

.. Petitioner

Vs.

1.The Principal Commissioner and
Commissioner of Land Reforms-cum-Urban Land Ceiling,
Chepauk, Chennai - 600 005.

2.The Competent Authority/Assistant Commissioner,
Land Reforms (Urban Lands (Ceiling & Regulation) Act,
Tirunelveli - 2.
Now Office at
Plot No.4, Door No.15, K.K.Nagar East 1st Street,
Madurai - 625 020.

3.The Tahsildar,
Palayamkottai Taluk,
Kokkirakulam, Tirunelveli.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents herein to consider the petitioner's representation dated 10.01.2019 and to modify the entries made as Urban Surplus Lands in the Revenue Records with regard to the land in S.No.26/1 of Melapalayam Village, Palayamkottai Taluk and to issue patta in the name of the petitioner namely A.H.Kaleelur Rahman for the land measuring an extent of 79-1/2 cents purchased by the petitioner through sale deed dated 13.11.2017 registered as Document No.5643/2017 within the time fixed by this Court.

For Petitioner : Mr.S.P.Maharajan

For Respondents : Mr.A.Muthukaruppan

<https://hcservices.ecourts.gov.in/hcservices/>

Additional Government Pleader



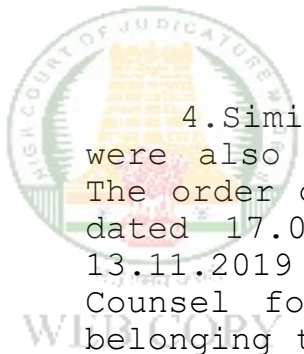
ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents herein to consider the petitioner's representation dated 10.01.2019 and to modify the entries made as Urban Surplus Lands in the Revenue Records with regard to the land in S.No.26/1 of Melapalayam Village, Palayamkottai Taluk and to issue patta in the name of the petitioner, namely, A.H.Kaleelur Rahman for the land measuring an extent of 79½ cents purchased by the petitioner through sale deed dated 13.11.2017 registered as Document No.5643/2017 within the time fixed by this Court.

2.The petitioner states that the land measuring an extent of 79½ cents in Survey No.26/1 in Melapalayam Village, Palayamkottai Taluk, was purchased by the petitioner through a sale deed dated 13.11.2017. Though the Urban Land Ceiling proceedings were originally initiated against the petitioner's predecessor-in-interest, it is stated by the petitioner that an appeal was preferred before the Principal Commissioner and Commissioner of Land Reforms and was pending. It is further stated that in view of the repeal of Urban Land Ceiling Act, the property became the property of the petitioner. Since the petitioner's ownership, as per the sale deed, is valid, it is further contended by the petitioner that the respondents cannot refuse to issue patta to the petitioner in respect of 79½ cents in Survey No.26/1.

3.The learned Counsel for the petitioner produced before this Court the final order passed in W.P.(MD)No.3998 of 2012 and other writ petitions. By order dated 18.02.2014, a batch of Writ Petitions were allowed by the following orders:

"8.In the light of the above said two pronouncements, this Court is of the view that these Writ Petitions will have to be allowed. Accordingly, W.P.(MD)no.3998 of 2012, 6332 and 6444 of 2013 are allowed and consequently, a direction is issued to the respondent No.1 to pass appropriate orders on the request of the petitioners concerned regarding the issuance of patta. While passing such orders, the said authority shall not reject the request of the petitioners on the ground that the lands have been vested with the Government, under the Act, within a period of eight weeks from the date of receipt of a copy of this order. Insofar as W.P.(MD)No.621 of 2013 is concerned, the respondent No.2 is directed to consider the representation of the petitioner, dated 09.08.2011, for mutation of patta and pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order, in the light of the discussion made above. No costs. Consequently, connected miscellaneous petitions are closed."



4. Similar order is passed by this Court in similar instances were also relied upon by the learned Counsel for the petitioner. The order dated 12.06.2019 in W.A.(MD)Nos.511 to 521 of 2019, order dated 17.06.2019 in W.P.(MD)No.364 of 2019 and the order dated 13.11.2019 in W.A.(MD)No.1211 of 2019 are produced by the learned Counsel for the petitioner to show that no portion of the land belonging to the petitioner can be treated as an Urban Land in view of the repeal of the legislation and the fact that the proceedings initiated under Urban Land Ceiling Act have not reached finality before the Urban Land Ceiling Act was repealed.

5. Though the learned Additional Government Pleader was directed to produce records to verify whether the proceedings initiated under the Urban Land Ceiling Act earlier was completed by declaring special surplus lands, the learned Additional Government Pleader is unable to produce records to show that the proceedings under the Urban Land Ceiling Act in respect of the petitioner's land had been completed by a declaration and taking possession before the repealing of the Act. Having regard to the records produced by the petitioner, this Court is unable to reject the contention of the petitioner. Once the proceedings initiated under Urban Land Ceiling Act has not come to the stage of declaration, before repealing Tamil Nadu Urban Ceiling Land Act, the property should be restored to the land owner. Accordingly, this Writ Petition is allowed and the respondents are directed to consider the petitioner's representation dated 10.01.2019 to modify the entries in respect of the land in Survey No.26/1 in Melapalayam Village, Palayamkottai Taluk in tune with this order. The third respondent is directed to issue patta to the petitioner for an extent of 79½ cents. The third respondent is also directed to consider the petitioner's claim for patta in respect of an extent of 79½ cents purchased by the petitioner through the sale deed dated 13.11.2017 in the light of the order of this Court in the present Writ Petition, within a period of eight weeks from the date of receipt of copy of this order. It is made clear that the petitioner's request for patta cannot be dismissed on the ground of pendency of proceedings initiated under Urban Land Ceiling Act and hence, the respondents are directed not to reject the petitioner's claim by citing initiation of proceedings under Urban Land Ceiling Act earlier in respect of the petitioner's land. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

1.The Principal Commissioner and
Commissioner of Land Reforms-cum-Urban Land Ceiling,
Chepauk, Chennai - 600 005.

2.The Competent Authority/Assistant Commissioner,
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3.The Tahsildar,
Palayamkottai Taluk,
Kokkirakulam, Tirunelveli.

+1 CC to M/s.Special Govt.Pleader (SR-2836[F] dated 24/01/2020)

+1 CC to M/s.S.P.MAHARAJAN, Advocate (SR-2788[F] dated 24/01/2020)

ORDER MADE IN
W.P. (MD) .No.5691 of 2019
23.01.2020

SRM

SDS (12.02.2020) 4P-6C