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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.724 OF 2019

AND

W.M.P.NO.798 OF 2019

A.Chinnadurai

... Petitioner

Vs

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
3. The Tahsildar,
Sriperumbudur Taluk,
Kancheepuram.
4. The Village Administrative Officer,
Sriperumbudur Taluk,
Kancheepuram.
5. The Assistant Commissioner,
Tamil Nadu Urban Land Ceiling Act,
(Kundrathur), No.248,
E.V.R.Periyar High Road,
Aminjikarai, Chennai - 600 029.
[R5 impleaded vide order dated 05.03.2019, made in
W.M.P.No.5234 of 2019 in W.P.No.724 of 2019]

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents from obstructing the petitioner's peaceful possession of the property at Plot No.31, Sri Boopala Vinayagar Nagar, Puthu Vattaram, Kundrathur, Sriperumbudur Taluk, Kancheepuram District comprising S.No.1292 to an extent of 1200 sq.ft by considering the petitioner's representation dated 29.11.2018.



For Petitioner : Mr.R.Marudhachalamurthy
For Respondents : Mr.A.Selvendran
Special Government Pleader

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ORDER

This writ petition has been filed to issue a Writ of Mandamus, forbearing the respondents from obstructing the petitioner's peaceful possession of the property at Plot No.31, comprised in S.No.1292 of an extent of 1200 sq.ft, situated at Sri Boopala Vinayagar Nagar, Puthu Vattaram, Kundrathur, Sriperumbudur Taluk, Kancheepuram District, by considering the petitioner's representation dated 29.11.2018.

2. The case of the petitioner is that house plot No.31, comprised in S.No.1292 of an extent of 1200 sq.ft, situated at Sri Boopala Vinayagar Nagar, Puthu Vattaram, Kundrathur, Sriperumbudur Taluk, Kancheepuram District, was purchased by the petitioner from one Jamruth Begam by the registered sale deed dated 02.04.2009, vide Document No.2125 of 2009. The said property originally owned by one T.S.Ramachandran. Subsequently, his lands were declared "surplus" under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (hereinafter referred to as 'the Act', for short). Thereafter, he has filed Form-8 under the said Act and based on his request by the proceedings of the Assistant Commissioner dated 21.09.1994, exempted his land comprised in S.No.1292 of an extent of 1.81 acres from the land ceiling process. Thereafter, the sale transactions took place and accordingly, the petitioner purchased the same. While that being so, during the year 2010, part of the lands comprised in S.Nos.1292 and 1293 were acquired for Outer Ring Project, Phase-I, CMDA, Koyembedu, Chennai. The land project is being built in two phases. For the first phase, the Chennai Metropolitan Development Authority (CMDA) acquired 29.65 Km of land between National Highways (NH) 45 and NH 205, covering 29 villages. In fact, aggrieved by the said acquisition proceedings, several land owners filed a Writ Petition in W.P.No.22465 of 2013 before this Court and it is pending. However, the Outer Ring Project construction of Phase-I was started in the Month of August 2010 and finally it was finished in the month of June 2013 and the road was also commissioned in April 2014. However, without any Notification to acquire the petitioner's land, the respondents are disturbing the peaceful possession and enjoyment of his house property. Therefore, the petitioner submitted his representation dated 29.11.2018 to the respondents 1 to 3.

3. On a perusal of the counter affidavit filed by the fifth



respondent, it reveals that originally the land was owned by the said T.S.Ramachandran and he filed a Return under Section 7(1) of the Act in respect of the land comprised in S.No.1292, measuring an extent of 1.81 acres of Kundrathur Village. Since the land was agricultural land, the Competent Authority issued an endorsement that the land did not attract the said Act, vide his letter No.R.Dis.No.2723/1994/A, dated 21.09.1994. Thereafter, the Competent Authority under the said Act at Kundrathur had inspected the subject property on 10.02.1998 and reported that the land was laid out into house plot and the Urban Land Owner had not filed any Return under Section 7(1) of the Act. Therefore, the notice under Section 7(2) of the Act was issued in the name of one T.S.Sambandha Mudaliar of Kundrathur Village as per the Revenue Records. Since the Urban Land Owner did not respond, further action under Sections 9 to 11 of the Act, was proceeded. The fifth respondent inspected the land on 04.06.1998 and found that the land has been converted into urban land and it was laid out into house plots. Hence, an extent of 6800 sq.mts, was declared as "excess vacant land" after allowing 500 sq.mts towards entitlement in favour of the land owner. The final statement under Section 10(1) of the Act was issued on 12.11.1998 and the same was served by way of affixture on 18.11.1998. The notice under Section 11(1) of the Act was published in the Tamil Nadu Government Gazette No.2, dated 13.01.1999. The Notification under Section 11(3) of the Act was published in the Tamil Nadu Government Gazette No.13, dated 07.04.1999 declaring that the "excess vacant land" was deemed to have been vested with the Government with effect from 30.09.1999. Thereafter, the notice under Section 11(5) of the Act was issued on 09.04.1999 for surrendering possession of the "excess vacant land". Subsequently, the possession of the "excess vacant land" was handed over to the Firka Revenue Inspector, Kundrathur on 03.06.1999. Subsequently, the petitioner purchased the subject property from the above excess vacant land, vide Document No.2125 of 2009 and filed this Writ Petition. Though the petitioner is a subsequent purchaser of the acquired land, he constructed house and he is living there.

4. Considering the above facts and circumstances, the fifth respondent is directed to consider the representation of the petitioner dated 29.11.2018 and pass appropriate orders to regularize the purchase of the petitioners' land under the 'innocent purchaser scheme' in view of G.O.Ms.No.565, Revenue Department, dated 26.09.2008 and subsequent Government Order in G.O.Ms.No.63, Revenue Department, dated 27.01.2020 and after giving an opportunity of hearing to the petitioner and counter parties if any, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.



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

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Kancheepuram District,
Kancheepuram.
2. The District Revenue Officer,
Kancheepuram District,
Kancheepuram.
3. The Tahsildar,
Sriperumbudur Taluk,
Kancheepuram.
4. The Village Administrative Officer,
Sriperumbudur Taluk,
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5. The Assistant Commissioner,
Tamil Nadu Urban Land Ceiling Act,
(Kundrathur), No.248,
E.V.R.Periyar High Road,
Aminjikarai, Chennai - 600 029.

+2ccs to Mr.R.Marudhachalamurthy, Advocate, S.R.No.61191 & 61620
+1cc to the Government Pleader, S.R.No.61935

W.P.No.724 of 2019

NR(CO)
PM/11/01/2022