



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

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THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.24840 of 2007

1.P.Suseela
W/o.Petha Naikar

2.V.Sekar,
S/o.A.Vadivel

... Petitioners

Vs.

1.The Special Commissioner-Cum-Commissioner,
Urban Land Ceiling-Cum-Urban Land Tax Office,
Ezhilagam, Chepauk,
Chennai-05.

2.The Assistant Commissioner,
Urban Land Tax and Competent Authority,
Under Urban Land Ceiling,
Erode.

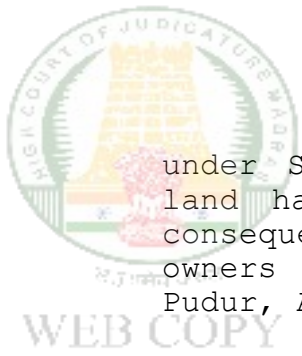
... Respondents

Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Declaration, to declare that the order passed by the second respondent under Section 9(5) of the Tamil Nadu Urban Land (Ceiling & Regulations) Act, 1978 in S.R.No.96/91 dated 03.02.1992 and consequential notice dated 21.10.2002 issued under Section 11 (5) of the Act in respect of the petitioners land has abated on the promulgation of Act 20 of 1999 and consequently declare the petitioners are the absolute owners of the land situated in S.No.194/8A and 194/8B Krishnan Pudur, Ammapet Village, Salem District.

For Petitioners : Mr.S.Kumar
For Respondents : Ms.A.Madhumathi
Special Government Pleader

ORDER

This writ petition is filed for issuance of a Writ of Declaration, to declare that the order passed by the second respondent under Section 9(5) of the Tamil Nadu Urban Land (Ceiling & Regulations) Act, 1978 in S.R.No.96/91 dated 03.02.1992 and consequential notice dated 21.10.2002 issued



under Section 11(5) of the Act in respect of the petitioners land has abated on the promulgation of Act 20 of 1999 and consequently declare that the petitioners are the absolute owners of the land situated in S.No.194/8A and 194/8B Krishnan Pudur, Ammapet Village, Salem District.

2.In the affidavit filed in support of the writ petition, it is stated that the petitioners' uncles namely, Ellappan and Govindasamy have filed a suit against the petitioners' father in O.S.No.84 of 1976 before the District Munsif Court, Salem and the suit was decreed on 17.08.1978. Based on which, a partition deed was made and the land in S.No.194/10 was sub-divided. It is stated that the property was also dealt with by the parties based on the partition.

3.It is the specific case of the petitioners that the second respondent wrongly presumed that the entire land measuring an extent of 7165 Sq.metre situated in S.No.194/10 belongs to the petitioners' father's younger brother Govindasamy and had initiated the proceedings under the Urban Land Ceiling Act, without reference to the petitioners and their rights. It is stated that the said Govindasamy is the owner of the property only to an extent of 38.5 cents in S.No.194/10. It is also stated that the said Govindasamy, sold the said 38.5 cents in S.No.194/10. The said Govindasamy sold the entire land to various third parties after forming the lay out and dividing the same into residential plots in the year 1983. The petitioners approached the respondents for releasing the land from the purview of the land ceiling proceedings.

4.The learned counsel for the petitioners submitted that the petitioners submitted a representation on 09.10.2002 and filed a writ petition before this Court in W.P.No.37068 of 2005 to direct the respondents to dispose of the representation dated 09.10.2002 and the same was allowed on 05.12.2005. He further submitted that the respondents have not passed any order on the representation of the petitioners.

5.The learned counsel for the second respondent submitted that the proceedings were commenced under the Urban Land Ceiling Act and submitted that the petitioners did not appear before the respondents during the enquiry. The petitioners have produced the communication of the second respondent dated 22.02.2003. As per the communication, it is admitted that the land is not property of the said Govindasamy and that the petitioners are in possession. The document produced by the petitioners also show that the petitioners are in possession.

6. A counter has been filed by the second respondent. It is stated that the second petitioner did not verify the ownership



of the subject lands with the concerned authority before purchase and did not bother to change name in revenue records. It is stated that changes were made in revenue records such as village and taluk records and the land in S.No.194/8B, 194/9, 19410 of Ammapettai Village had been registered as "Government ULC lands". However, it is admitted that no physical possession was taken from the petitioners. The respondents in their counter contend that mere paper possession is sufficient. It is not established that the land belonged to Sri.Govindasamy. When it is admitted that the said Govindasamy is not the owner and was never in possession, the proceedings under S.11(5) in the name of Govindasamy will not affect the right of petitioners.

7.This Court is of the view that the proceedings has been initiated under the Tamil Nadu Urban Land Ceiling Act, against a stranger, without reference to the petitioners' possession or title. Therefore the petitioners are entitled to get the relief as prayed for. Accordingly, the writ petition is allowed. No Costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Commissioner-Cum-Commissioner,
Urban Land Ceiling-Cum-Urban Land Tax Office,
Ezhilagam, Chepauk,
Chennai-05.

2.The Assistant Commissioner,
Urban Land Tax and Competent Authority,
Under Urban Land Ceiling,
Erode.

+1cc to Mr.S.Kumar, Advocate SR.No. 18300

+1 cc to Government Pleader Sr.No.17764

W.P.No.24840 of 2007

GMI (CO)
B.VC(05.08.2021)