



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.07.2021

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.4774 of 2019

Chennai Kottur Nadar Uravi Murai
Magamai Paripalanam,
Rep. by its President,
Mr.S.Annamalai,
S/o Late M.Sivaguru,
Having Office at No.36/11,
Perumal Koil Street, Kottur,
Chennai 600 085.

... Petitioner

-Versus-

1. The Revenue Divisional Officer,
Taluk Office,
Guindy, Chennai 600 032.
2. The Tahsildar,
Guindy Taluk,
Chennai.
3. The Assistant Commissioner (ULT),
and Competent Authority,
R.K.Mutt Road,
Mylapore, Chennai 600 004.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 3rd respondent to remove the ceiling in respect of the petitioner's land measuring 1182 square meter (12719 square feet) comprised in T.S.No.90, Old Survey No.66/1, Block No.16, Kottur Village, formerly Mylapore-Triplicane Taluk, now, Guindy Taluk, by making necessary changes in the revenue records and for a consequential direction to the 2nd respondent to issue patta in the name of the petitioner.

For Petitioner	: Mr.S.Jaganathan
For Respondent(s)	: Mr.Yogesh Kannadasan, Government Advocate for RR1 to 3



ORDER

[This matter has been heard through video conference]

WEB COPY
This writ petition has been filed seeking a direction to the 3rd respondent to remove the ceiling in respect of the petitioner's land measuring 1182 square meter (12719 square feet) comprised in T.S.No.90, Old Survey No.66/1, Block No.16, Kottur Village, formerly Mylapore-Triplicane Taluk, now, Guindy Taluk, by making necessary changes in the revenue records and for a consequential direction to the 2nd respondent to issue patta in the name of the petitioner.

2. The case of the petitioner is that the petitioner association has purchased a land measuring an extent of 12719 square feet comprised in T.S.No.90 (Old S.No.66/1) Block No.16, Kottur Village, formerly Mylapore - Triplicane Taluk, now, Guindy Taluk, through two different sale deeds registered as Doc.No.54 of 1985 dated 14.12.1984 and Doc.No.1761 of 1985 dated 24.05.1984 on the file of the Sub Registrar, Adayar, from the legal heirs of Ellappa Naicker. After the purchase, the petitioner association made an application to the 2nd respondent seeking mutation of revenue records. But, the 2nd respondent refused to effect mutation of the property in the name of the petitioner on the ground that the above said property was subject matter of Urban Land Ceiling proceedings and directed the petitioner to approach the 3rd respondent for no objection certificate for granting patta. Thereafter, on enquiry, the petitioner came to about the initiation of proceedings under the Urban Land (Ceiling and Regulation) Act against the vendor of the petitioner and issuance of notice to that effect. He further came to know about the fact that the vendor of the petitioner filed an appeal before the Tamil Nadu Land Reforms Special Appellate Tribunal challenging the urban land proceedings and on dismissal of the appeal, a writ petition was filed by the vendor of the petitioner and his legal heirs in W.P.No.127838 of 2003 before this Court. A Division Bench of this Court, while disposing the writ petition by order dated 10.09.2009, without going in to the merits of the case, held that that in view of the decision of the Supreme Court and Section 4 of the Repeal Act 20 of 1999, all proceedings under the Act must be held to have been abated. Challenging the same, the 3rd respondent herein filed Special Leave Petition in SLP (C) Nos.11854 of 2014 which was dismissed by the Honourable Supreme Court, by order dated 10.09.2009, while dismissing the special leave petition, held that there was no material available on record to show that notice under Section 11(5) of The Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 had been served upon the respondents and taken the possession of the land involved in those proceedings from the respondents.



3. According to the petitioner, in view of the orders of the Honourable Supreme Court in Special Leave Petition, the urban land ceiling proceedings came to an end. The petitioner collected all materials and approached the 2nd respondent for the grant of patta for the above said property in their name. The grievance of the petitioner is that his application has not been considered by the 2nd respondent till date despite the orders of this court as well as the Honourable Supreme Court. Hence, the present writ petition.

4. The 2nd respondent has filed his counter affidavit stating that Ellappa Naicker was the owner of the land comprised in S.Nos.90, 101/2 and 154 in all measuring an extent of 2543.50 square meters, therefore, a proceeding has been initiated under the Urban Land (Ceiling and Regulation) Act, 1978. A notice under Section 11(5) of the Act was also issued in the year 1991. It is also stated by the 2nd respondent that original owner of the lands had approached the Land Reforms Special Appellate Tribunal by way of appeal and the same was dismissed. Aggrieved by the same, the original owner of the land filed a writ petition in W.P.No.12732 of 2003 before this court and a Division Bench of this Court by order dated 10.09.2009 disposed of the appeal observing that Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 was repealed by Act 20 of 1999 as early as on 16.06.1999. It is however stated by the 2nd respondent that factual aspect regarding issuance of Notice Section 11(5) of The Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 was not brought to the notice of the court and therefore, 3rd respondent has been taking steps to file a review petition before the Honourable Supreme Court.

5. The respondents 1 and 3 have also filed a detailed separate counter affidavit, inter alia, stating that after the dismissal of the Special Leave Petition, a report has been sent to the Government by the Commissioner of Urban Land Ceiling and Urban Land Tax on 11.11.2014 and 25.05.2015 and orders awaited. They would act upon, on the request of the petitioner as soon as the orders are received from the Government.

6. The learned counsel for the petitioner submitted that even though the petitioner approached the Tahsildar and produced the orders of this court as well as the Honourable Supreme Court, the Tahsildar, without considering the same, simply relying upon the order passed by the Tamil Nadu Land Reforms Special Appellate Tribunal rejected the application of the



petitioner for grant of patta. As per the orders of the Division Bench of this court in W.P.No.12732 of 2003 dated 10.09.2009 and the orders of the Honourable Supreme Court in SLP (C) No.11854 of 2014 dated 12.09.2014, the entire proceedings initiated under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 stood lapsed and there is no impediment for the 2nd respondent to issue patta.

7. Mr.Yogesh Kannadasan, the learned Government Advocate, appearing for the respondents while fairly admitting the factual and legal positions narrated above, on instructions, submitted that no review has been filed till today.

8. I have considered the submissions made on either side carefully and also perused the records carefully.

9. Even though the land in question was subject to the urban land ceiling proceedings, admittedly, that proceedings was declared to have been lapsed by order of the Division Bench of this Court made in W.P.No.12732 of 2003 dated 10.09.2009 and the same was confirmed by the Honourable Supreme Court by order dated 12.09.2014 in SLP (C) No.11854 of 2014. The relevant portion of the order of the Honourable Supreme Court reads as follows:-

"We have perused the record. There is nothing on record to show that notice under Section 11(5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 is served upon the respondents - declarants and taken the possession of the land involved in these proceedings from the respondents-declarants. Therefore, the evidence of the fact of taking possession from the declarants is not proved and, therefore, no ground to interfere with the impugned order passed by the High Court."

10. In view of the above, the 2nd respondent ought not to have refused to grant patta for the property in the name of the petitioner on the ground that the lands were subject to the urban land ceiling proceedings. Therefore, the 2nd respondent is directed to consider the application of the petitioner association for the grant of patta for the property in question and pass necessary orders thereof on merits and in accordance with law within a period of twelve weeks. The petitioner is directed to appear before the 2nd respondent and produce copy of



orders of this court as well as the Honourable Supreme Court so as to enable the 2nd respondent to comply with the directions given above within the time frame fixed by this court. This writ petition is disposed of accordingly with the above directions. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Revenue Divisional Officer,
Taluk Office, Guindy,
Chennai 600 032.
2. The Tahsildar,
Guindy Taluk,
Chennai.
3. The Assistant Commissioner (ULT),
And Competent Authority,
R.K.Mutt Road, Mylapore,
Chennai 600 004.

+1 CC to Mr.S.Jaganathan, Advocate, Sr.No. 33681.

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SPD(CO)
LS(26/08/2021)