



IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 24.09.2021

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THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.11314 of 2008  
and  
M.P.No. 2 of 2008

C. Suresh

... Petitioner

Vs.

1. The Special Commissioner & Commissioner,  
Land Reforms, Chepauk,  
Chennai - 600 005.

2. The Assistant Commissioner,  
Competent Authority,  
Urban Land Ceiling (Alandur Zone),  
163, Karuneegar Street, Alandur,  
Chennai.

3. The Tahsildhar,  
Tambaram Taluk, Chennai.

... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent dated 31.10.1986 in S.R.9/85A under Section 9(5) and 10.09.1995 in ref.Rc.7237/86(B) under Section 11 (5) respectively of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, in respect of land comprised in survey No.174/2, more particularly the land comprised in survey No.174/2M of Madipakkam Village, Tambaram Taluk, Kancheepuram District, measuring to an extent of 2400 sq.ft and quash the same and treat the proceedings of the second respondent as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act (Act 20 of 1999) and direct the third respondent to incorporate the name of the petition as owner in respect of lands referred to above in all Government records.

For Petitioner : Mr.V.Ramesh

For Respondents : Mr.M.R.Gokul Krishnan  
Government Advocate

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent dated 31.10.1986 in S.R.9/85A under Section 9(5) and 10.09.1995 in ref.Rc.7237/86(B) under Section 11 (5)



respectively of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, in respect of land comprised in survey No.174/2, more particularly the land comprised in survey No.174/2M of Madipakkam Village, Tambaram Taluk, Kancheepuram District, measuring to an extent of 2400 sq.ft and quash the same and treat the proceedings of the second respondent as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act (Act 20 of 1999) and direct the third respondent to incorporate the name of the petitioner as owner in respect of lands referred to above in all Government records.

2. The case of the petitioner is that the land comprised in Survey No.174/2 part corresponding to Paimash Nos.401 to 417 ad-measuring 9 acres 18 cents was originally owned by one Rajammal, wife of Murugesu Naicker, by virtue of two sale deeds dated 17.07.1936 vide Document No. 1389 of 1936 and 16.12.1938 vide Document No. 1663 of 1938. Thereafter, the said land was laid out in respect of portion of the property in Paimash Nos. 414 and 417 and divided the land into house plots and obtained sanction of the layout vide Sanction No. L.L.D.M/D.T.P. No.183/1973.

3. As per the layout, one of the house plot bearing plot No. 25 to an extent of 2400 sq.ft was purchased by one R.Varadharajulu, by a registered sale deed dated 08.04.1974 vide Document No. 574 of 1974. Thereafter, it was sold out in favour of one Moris Muniraja Kuppusamy by the registered sale deed dated 23.06.1990 vide Document No. 976 of 1990. Thereafter, he put up construction in the said plot, in turn the petitioner purchased the said plot from them by a registered sale deed dated 22.08.2005 vide Document No. 3647 of 2005. Thereafter, the petitioner came to know about the acquisition proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 (herein after called as "Act"). Therefore, the petitioner challenged the notice issued under Section 9(5) and 11(5) of the Act.

4. The learned counsel for the petitioner would submit that admittedly the entire land was approved as early as in the year 1973 in L.L.D.M/D.T.P. No.183/1973. Whereas, the Tamil Nadu Urban Land (Ceiling & Regulation) Act 24 of 1978 came into force only from 03.08.1976. Section 5(3) specifically excludes the lands which have been converted into house plots and approval has been obtained from the concerned local body or from the Director of Town and Country Planning Act. The subject property was originally purchased by on Varadharajulu in the year 1974 and thereafter, one Moris Muniraja Kuppusamy purchased along with his wife in the year 1990, in turn the petitioner purchased the said property in the year 2005.

5. He further submitted that the second respondent issued notice under Section 9(4) together with draft statement



under Section 9(1) of the Act on 28.10.1986 and the same were received by one Poongavanam, who raised objections as that the lands are agricultural lands. The said objections were rejected by the second respondent on the ground that the land has been laid out into house plots. Therefore, the second respondent was well aware that the lands have already been laid out as house plots and sold out to various persons. Even then, they have not chosen to issue any notice to the persons, who purchased the house plots. Admittedly, no notice has been served to the respective plot owners. After purchasing the said house plots, the house was assessed to property tax and the petitioner is in possession and enjoyment of the petitioner even till today. The petitioner has been paying property tax to the house and also obtained electricity connections and telephone connections. Therefore the notice under Section 11(5) would be merely on paper, whereas actual possession is still with the petitioner. There is no record for the respondents to prove that the possession has been taken after preparing a panchanama or memorandum signed by the witnesses.

6. Per Contra, the respondents filed a counter stating that one Murugesha Naickar is the owner of the property comprised in Survey No. 174/2A1A1, situated at Madipakkam Village under the patta No. 1292. Thereafter, he converted the said lands into house plots and started selling the plots. Since, the extent converted by him ad-measuring 9.17 acres was in excess of the ceiling limit, he was required to file the return under Section 7(1) of the Act. Thereafter, he did not file it. Notice under Section 7(2) of the Act was issued to him on 24.05.1985 and same was sent by Registered Post with Acknowledgement. On receipt of the same, the daughter of Murugesha Naickar appeared for enquiry on 03.01.1986 and filed a statement to the effect that the land owner Murugesha Naickar was not in good health.

7. Later, draft statement under Section 9(1) along with notice under Section 9(4) of the Act were issued on 28.02.1986. As there was no response from the land owner, a notice was issued on 16.05.1986, called upon the land owner to attend the enquiry to be held on 30.05.1986. On receipt of the same, one Poongavanam, another daughter of the said Murugesha Naickar have sent a letter on 28.05.1986, requested for adjournment of enquiry. Thereafter, they neither appeared before the enquiry officer nor filed any objections. Therefore, the respondent has passed order under Section 9(5) of the Act on 31.10.1986, declaring the excess vacant land. The final statement under Section 10(1) of the Act was issued on 31.10.1986. Thereafter, notice under Section 11(1) and 11(3) of the Act were published in the Tamil Nadu Government Gazette dated 09.03.1994 and 15.06.1994 respectively. The notice under Section 11(5) of the Act was issued on 10.09.1995, subsequently the possession of excess vacant land was handed over to the Revenue Inspector, Alandur on



08.10.1996.

8. It is further revealed that by G.O.Ms.No.565, dated 26.09.2008 to regularize the lands purchased by the innocent purchasers without knowing acquisition proceedings after commencement of the Act. Therefore, the petitioner may be advised to seek remedy for regularization of the purchase.

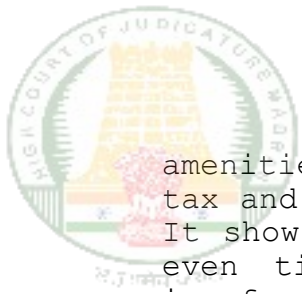
9. Heard, Mr. V.Ramesh, the learned counsel appearing for the petitioner and Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents.

10. Though, the petitioner purchased the subject property on 22.08.2005, originally his vendor purchased from the approved layout as early as on 08.04.1974 by a registered Document No. 574 of 1974. Admittedly, the said Act came into force on 03.08.1976. Even before the enactment of this Act, the subject land was laid out by the Sanction No. L.L.D.M/D.T.P. No.183/1973. Section 5(3) of the Act reads as follows:

"Notwithstanding anything contained in sub-section (1), where any person with the object of development of vacant land for sale by allotment of plots of land to others, has by himself, or through any other person, obtained before the commencement of this Act, the sanction of the appropriate authority for the lay out of such vacant land held by such person, then the person so holding the land shall be entitled to continue to hold such vacant land."

11. Accordingly, it excludes the land, which have been converted into house plots and approval has been obtained from the authority concerned. Therefore, the subject property which was purchased by the petitioner has been duly excluded from the acquisition. Even according to the respondent, on receipt of the notice draft statement under Section 9(1) of the Act, one Poongavanam who is being the daughter of the original owner, i.e., Murugesu Naickar, appeared and raised objections on the ground that the land have been laid out into house plots. Therefore, the second respondent was well aware of the layout in respect of the subject property and sold out to various persons.

12. Even then, the second respondent has not chosen to issue any notice to the persons who purchased the house plots. Admittedly, no notice have been served to the petitioner or other persons who purchased from the layout. Finally, the notice under Section 11(5) of the Act was issued on 10.09.1995 and subsequently, the possession of the excess vacant land was handed over to the Revenue Inspector on 08.10.1996. Whereas, the petitioner is still in possession and enjoyment of the subject property. In fact, his house was assessed to property tax and he also obtained electricity connections and other



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amenities to his house. He is regularly paying the property tax and other revenue dues in respect of the subject property. It shows that the physical possession has not been taken over even till today. Therefore, the acquisition proceedings, insofar as the petitioner's subject property is concerned, are vitiated and cannot be sustained as against the petitioner.

13. Section 11(5) contemplates the issuance of notice for voluntary surrender of land. If the land owner or person in possession fails to surrender the land in his possession, then the power is conferred on the respondents to take possession of the lands by use of force as contemplated under Section 11(6) of the Act. Even according to the respondent, the notice under Section 11(5) has not been served to the petitioner or erstwhile owner. That apart, the petitioner never surrendered the subject land to the respondents. Thereafter, no proceedings have been initiated as contemplated under Section 11(6) of the Act. Therefore, the respondents also failed to follow the procedures laid down under the Act. Hence, the entire proceedings, insofar as the petitioner's property is concerned, are vitiated for the reason that even before the Act i.e., 03.08.1976, the subject land had been laid down and the house plots were sold out to various persons.

14. In view of the above, the order passed by the second respondent dated 31.10.1986 in S.R.No.9/85A under Section 9(5) and 10.09.1995 in ref.Rc.7237/86(b) under Section 11(5) respectively of the Tamil Nadu Urban Land(Ceiling and Regulation) Act, 1978, is hereby quashed insofar as the petitioner's property alone. The third respondent is directed to release the subject land from the entire proceedings.

15. In the result, the writ petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS IX)

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Sub Assistant Registrar

Lpp/mn

To

1. The Special Commissioner & Commissioner,  
Land Reforms, Chepauk, Chennai - 600 005.

2. The Assistant Commissioner,  
Competent Authority,  
Urban Land Ceiling (Alandur Zone),  
163, Karuneegar Street, Alandur, Chennai.

3. The Tahsildhar, Tambaram Taluk, Chennai

+1 cc to Government Pleader Sr.NO. 49737

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and M.P.No. 2 of 2008

SS (CO)

A.SK(27.10.2021)