

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 13547 of 2008
and M.P.No.1 & 2 of 2008

Karthik

... Petitioner

Vs

1.The Competent Authority of
Urban Land Ceiling and the Assistant
Commissioner of Urban Land Tax,
Madhavaram, Chennai - 600 029.

2.The Secretary to Government,
Revenue Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the impugned proceedings of the 1st respondent dated 24.03.1997 in R.C. No.2578/96/D and also the proceedings dated 15.04.1999 in R.C. No.2578/96/D, and quash the same.

For Petitioner : Mr. Raja

For Respondents : Mrs. A.Madhumathi
Special Government Pleader

सत्यमेव जयते
O R D E R

This Writ Petition has been filed for issuance of Writ of Certiorari, calling for the records relating to the impugned proceedings of the 1st respondent dated 24.03.1997 in R.C. No.2578/96/D and also the proceedings dated 15.04.1999 in R.C. No.2578/96/D, and quash the same.

2. Brief facts that are necessary for the disposal of this Writ Petition are as follows:

The petitioner states that he purchased a property measuring an extent of 0.64 Cents comprised in Survey No.247/2 of Vichoor Village, Ponneri Taluk, Thiruvallur District, under the sale deed dated 24.05.2007 through Power of Attorney agent of the previous owner by name Thiru. Dhanasekaran. It is also stated by the petitioner that the said Dhanasekaran purchased the property from one Shanmugham under a document of sale on 22.11.1989. It is admitted that the Tamil Nadu Urban Land

(Ceiling and Regulation) Act, 1978, (hereinafter referred as 'the Act') was repealed in the year 1999. However the petitioner challenged the impugned proceedings issued under sub-section (5) of Section 9 of the Act and the order for taking possession issued in the name of original owner Thiru. Govindan.

3. It is the case of the petitioner that possession was never taken from him or the previous owner and that the proceedings initiated by the respondents are void since no notice was served on the persons who are interested. It is stated that the original owner was one Natesa Thambiran and it was inherited by Govindan Thambiran. It is further stated that there was a petition and the property was allotted to one Shanmugam who in turn sold the property in favour of said Dhanasekaran in the year 1989. It is admitted before this Court that no notice was issued either to the said Shanmugam or Dhanasekaran and that therefore this Court is unable to accept the case of the respondent that they took possession of the property. Since the respondents are unable to satisfy this Court that notice for taking possession was issued to the person in possession, this Court is unable to come to the conclusion that the proceedings have become final as against everyone who are interested in the land.

4. It is settled that the notice issued under the Act will be valid only if the mandatory procedures contemplated under the Act are followed in accordance with law and possession was taken from the petitioner's vendor. Since it is admitted that the names of Dhanasekaran or the previous owners are not mentioned in the impugned notice, this Court is of the view that the proceedings of the first respondent impugned in the Writ Petition will not become final unless possession is taken from the purchasers. No material is placed before this Court to show that physical possession was taken from the petitioner's vendor or petitioner after issuing notice under Section 11(5) of the Act. By virtue of the subsequent repeal of the Act, this Court cannot give any liberty to the respondents to initiate fresh proceedings.

5. This Writ Petition is allowed and the impugned proceedings of the 1st respondent dated 24.03.1997 in R.C. No.2578/96/D and the proceeding dated 15.04.1999 in R.C. No.2578/96/D is hereby set aside as abated. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

To

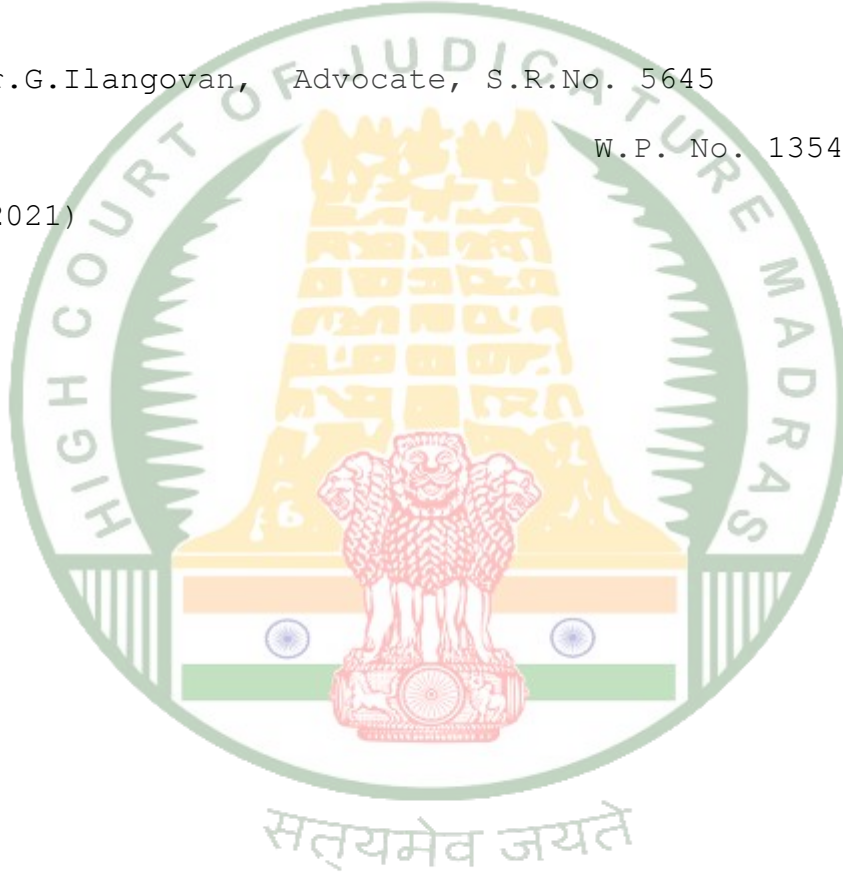
1.The Competent Authority of
Urban Land Ceiling and the Assistant
Commissioner of Urban Land Tax,
Madhavaram, Chennai - 600 029.

2.The Secretary to Government,
Revenue Department,
Secretariat,
Fort St. George,
Chennai - 600 009.

+1cc to Mr.G.Ilangovan, Advocate, S.R.No. 5645

W.P. No. 13547 of 2008

SSN(CO)
GN(29/03/2021)



WEB COPY