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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

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

WP.No.7473 of 2018 and
WMP.Nos.9317 & 9318 of 2018

A.S.Saroja
Rep. by her power agent,
C.Kasturi Raj

... Petitioner

Vs

- 1.The State of Tamilnadu,
Rep. by its Secretary to Government,
Revenue Department,
Secretariat, Fort St.George,
Chennai 600 009.
- 2.The Tahsildar,
Maduravoyal Taluk,
Chennai,
Tamilnadu.
- 3.The Commissioner, Authority, ULC and
Assistant Commissioner of Urban Land Tax,
Poonamallee, Chennai.

(R3 impleaded as per order dated 07.01.2020
made in WMP.No.269 of 2020 in
WP.No.7473 of 2018)

... 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 comprised in its proceedings No.NK.2691/2017 A1 dated 12.01.2018 and quash the same as illegal, arbitrary, unconstitutional and ultra vires the Act and consequentially direct the second respondent to effect necessary changes in the revenue records in respect of the petitioner's land admeasuring 34 cents out of an extent of 2 acres and 4 cents in survey No.151 at Koladi Village, Saidapet Taluk, Chengalpattu District to reflect the ownership and title of the petitioner and to issue copies of such changed records / electronic patta to the petitioner within the time as may be fixed by this Court.



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For Petitioner : Mr.Rahul Balaji

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

ORDER

This Writ Petition is filed to issue a writ of certiorarified mandamus calling for the records of the second respondent comprised in its proceedings No.NK.2691/2017 A1 dated 12.01.2018 and quash the same and consequentially direct the second respondent to effect necessary changes in the revenue records in respect of the petitioner's land admeasuring 34 cents out of an extent of 2 acres and 4 cents in survey No.151 at Koladi Village, Saidapet Taluk, Chengalpattu District to reflect the ownership and title of the petitioner and to issue copies of such changed records / electronic patta to the petitioner within the time as may be fixed by this Court.

2. The case of the petitioner is that the land comprised in survey No.151 to an extent of 34 cents out of total extent of 2 acres 4 cents situated at Koladi Village, Saidapet, Chengalpet owned by the petitioner and subsequently came to understand that the subject property along with other properties were under the acquisition proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978. However, the Principal Act came to be repealed by the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1989 wherein all the acquisition proceedings under the Principal Act were abated. Therefore, the petitioner filed writ petition in WP.No.21139 of 2003 to deal with the property. This Court by order dated 06.10.2009 passed order as follows:

"5.However, the notice under Section 7(2) issued only on 04.09.1992, was admitted issued only to Rosi Udayar and not to the petitioners. All subsequent proceedings have been taken only as against Rosy Udayar or Pallavan Transport Corporation Cooperative House Construction Society, despite the petitioners having issued with pattas in the year 1990 itself.

6.In paragraph 2 of the counter affidavit, the respondents have admitted that the notice under Section 11(5) demanding possession was served only on Pallavan Transport House Construction Society on 15.07.1997 and possession was taken on 05.12.1997.



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This admission on the part of the respondents confirms the fact possession of the property of the petitioners in these writ petitions was not taken from these petitioners. The possession taken from the Pallavan Transport Corporation Cooperative Society, cannot be of the lands belonging to the petitioners, since that society owned a different extent of 136 cents.

7. Thus on admitted facts, it is clear that actual physical possession could not have been taken from the petitioners. Hence, the petitioners are entitled to the benefit of Section 4 of the Repealing Act. Consequently, both the writ petitions are allowed. No costs. The connected miscellaneous petitions are closed."

This Court concluded that the petitioners therein are entitled to benefit of Section 4 of the Repealing Act and allowed the writ petition. In view of the order passed in the writ petition, the petitioner requested the second respondent to issue patta for the subject land. However, by the impugned order, the second respondent rejected the request of the petitioner for the reason that as against the order passed in the writ petition, they filed writ appeals in WA.Nos.71471 & 71475 of 2015 and were dismissed by order dated 10.08.2017. Aggrieved by the same, to file appeal before the Hon'ble Supreme Court of India opinion was sought for from the first respondent and it is pending.

3. Admittedly, as against the order passed in the writ petition in WP.No.21138 of 2003 dated 06.10.2009, the first respondent filed CMP.Nos.17647 & 14646 of 2016 in WA.SR.Nos.71471 & 71475 and were dismissed by the Hon'ble Division Bench of this Court on 10.08.2017. As against the same, no appeal has been preferred even till today. Even then, the second respondent mechanically dismissed the request made by the petitioner for issuance of patta for the subject land.

4. In view of the above, the impugned proceedings dated 12.01.2018 is set aside and the writ petition is allowed. The second respondent is directed to issue patta for the subject land in favour of the petitioner and also directed to effect necessary changes in the revenue records in respect of the petitioner's land admeasuring 34 cents out of an extent of 2 acres and 4 cents in survey No.151 at Koladi Village, Saidapet Taluk, Chengalpattu District to reflect the ownership and title of the petitioner and to issue copies of such changed records / electronic patta to the petitioner within a period of twelve



weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petitions are closed. No order as to costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
State of Tamilnadu,
Revenue Department,
Secretariat, Fort St.George,
Chennai 600 009.
 - 2.The Tahsildar,
Maduravoyal Taluk,
Chennai,
Tamilnadu.
 - 3.The Commissioner, Authority, ULC and
Assistant Commissioner of Urban Land Tax,
Poonamallee, Chennai.
- +1cc to M/s.R.Parthasarathy, Advocate Sr.51221
+1cc to the Government pleader Sr.51966

WP.No.7473 of 2018

bp[co]
srg 20/10/2021