IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.612 OF 2015

1.S.Veerammal
2.M.Sivagami
3.Dhanalakshmi
4.Bakiyalakshmi
5.Lakshmi

...Petitioners

Vs

1. The Assistant Commissioner, Urban Land Tax
And Competent Authority of Urban Land Ceiling,
Ezhilagam, Chepauk,
Chennai 600 005.

2. The Government of Tamilnadu,
Rep. by the Commissioner and Secretary to Government,
Revenue Department,
Chennai 600 009.

...Respondents

Prayer :-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Assistant Commissioner, Urban Land Tax, the first respondent herein, to declare under section 4 of the Tamilnadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 (Act 20 of 1999) that all proceedings to take possession of the lands situated in survey No.223 in Patravakkam Village, Sembium Sub District Chengalpattu District measuring totally 10 grounds and 2136 sq.ft. from the holdings of the petitioner shall abate.

For Petitioners : Mr.C.D.Johnson
For Respondents : Mr.P.Baladhandayutham, Special Government Pleader

ORDER

This writ petition is filed for direction directing the Assistant Commissioner, Urban Land Tax, the first respondent herein, to declare under section 4 of the Tamilnadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 (Act 20 of 1999) that all proceedings to take possession of the lands situated in survey No.223 in Patravakkam Village, Sembium Sub District Chengalpattu District measuring totally 10 grounds and 2136 sq.ft. from the holdings of the petitioners shall abate.

2. Heard, Mr.C.D.Johnson, the learned counsel for the petitioners and Mr.P.Baladhandayutham, Special Government Pleader appearing for the respondents.

3. The husband of the first petitioner owned property to an extent of 10 grounds and 2136 sq.ft. comprised in survey No.223 situated at Patravakkam Village, Sembium. He died on 27.04.1991 leaving behind the petitioners as his legal heirs. In the year 1981, the subject property was acquired by the Tamilnadu Government under the Tamilnadu Urban Land (Ceiling and Regulation) Act, 1978. Aggrieved by the same, the husband of the first petitioner filed appeal as contemplated under Section 30 of the said Act on 15.04.1982. Thereafter on 05.08.2005 and 26.12.2006, the petitioners submitted representation before the respondents to issue certificate declaring that the property is not acquired under the said Act, since it has been repealed in the year 1999 and also on the ground that the petitioners are in possession and enjoyment of the subject property. Therefore, as per the repeal Act, the entire proceedings initiated under the Urban Land Ceiling Act gets abated as possession of the land has not been taken over by the Government based on the acquisition. Though the petitioners have merely averred that they are in possession and enjoyment of the subject property, there is absolutely no piece of evidence to show that they are in possession and enjoyment of the subject property.

4. On perusal of the counter filed by the respondents and also on verification of original files produced by the respondents revealed that the land in S.No.223 of Patravakkam Village measuring an extent of 2450 sq.mtrs. stood registered in the name of Thiru.Samarpuri and others as per revenue records. A notice under Section 7(2) of the Tamilnadu Urban Land (Ceiling and Regulation) Act, 1978 was issued on 28.08.1985 to 1) Thiru.Samarpuri, S/o Thangavelu, 2) Tmt.Veerammal W/o.Samarpuri, 3) Thiru.Thairianathan S/o.Samarpuri, 4) Dhanalakshmi D/o.Samarpuri and 5) Thiru.Sivakami, D/o.Samarpuri for an extent of 0.60 cents (10 grounds 2136 sq.ft.) in S.No.223 of Patravakkam Village requesting to file a statement under Section 7(1) of the Act for the land held by them. Another notice under Section 7(2) of the Act was issued on 30.04.1987. As the Urban Land Owner refused to receive the same it was served by affixture on 25.10.1989. The notice under Section 9(4) with draft statement under Section 9(1) of the Act was issued on 30.09.1991 and was served on One, Thiru.R.Singamoorthy on

17.10.1992. No objections were received. Then the land was inspected by the Deputy Tahsildar on 31.03.1996 and found converted to urban, vacant with heavy, thick bushes. Hence, the then Competent Authority issued orders under Section 9(5) of the Act in the name of Thiru.Samarpuri, S/o.Thangavelu and four others on 21.04.1996 to acquire excess vacant land of 1950 sq.mtrs. after allowing 500 sq.mts as family entitlement and it was served by affixture on 18.08.1996 in the address by Assistant Grade Revenue Inspector Office of the Assistant Commissioner, Urban Land Tax, Ambattur. Final statement under Section 10(1) of the Act was issued on 13.06.1997 and served by affixture in the land. Notification under Section 11(1) of the Act was issued on 26.08.1997 and it was published in Tamil Nadu Government Gazette dated 05.11.1997 at page 1424 in No.VI (I) 1412/97, dated 05.11.1997 for an extent of 1950 sq.mts. Then notification under Section 11(3) of the Act was issued on 15.12.1997 and it was published in Tamilnadu Government Gazette dated 14.01.1998 at page 41 in No.VI (I) 41/98 and the land was acquired and deemed to be vested with State Government with effect from 01.01.1998 free from all encumbrances.

5. Further revealed that a notice under Section 11(5) of the Act was issued on 31.03.1998, and it was served by affixture in the land. The possession of the excess vacant land was handed over to the Revenue Authorities on 10.10.1998. Necessary changes were made in the Taluk accounts vide TK8A/111/1408, dated 20.07.1998. Notice under Section 12(7) of the Act was issued on 30.11.1998 and it was served by affixture on 13.12.1998 as the Urban Land Owner refused to receive. Orders under Section 12(6) of the Act was issued on 21.06.1999 fixing the amount payable as Rs.13,650/- and it was served by affixture on 26.06.1999 as the Urban Land Owner refused to receive the same. Tmt.M.Sivagami, D/o.Samarpuri, one of the Urban Land Owner, on 07.06.2005 applied for certified copies of the acquisition orders and received on 20.06.2005. Again Thiru.D.Vinod, S/o.S.Thairianathan also applied for copies of the acquisition orders and received on 27.04.2010. It is submitted that Tmt.Sivagami filed a petition before Special Commissioner/ Commissioner of Urban Land Ceiling and Urban Land Tax, dated 04.08.2005, requesting to declare the proceedings taken against the S.No.227/1, 227/5, 227/6 of 3600 sq.mts. and S.No.223/3 of 1950 sq.mtrs. of Patravakkam Village as abated under Section 4 of the Repeal Act and requested to give clearance under the Act. After getting report from the Assistant Commissioner, Urban Land Tax, Ambattur and verification of records, a reply was sent to Tmt.Sivagami on 25.01.2007 stating that as the lands were acquired and possession handed over to Revenue Authorities on 10.10.1998, and as the Act was repealed vide Tamilnadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 on 16.06.1999, the request of the

petitioner to issue No Objection Certificate or any relief cannot be complied with. In the meantime, the petitioner Tmt.Sivagami had given a petition under Right to Information Act on 26.12.2006 for which a reply was also sent vide the same letter dated 25.01.2007.

6. After lapse of 17 years, the present writ petition has been filed on the ground that they are in possession and enjoyment of the subject property. In fact on the application submitted by the petitioners for issuance of patta before Tahsildar, Ambattur on production of no objection certificate as if issued by the first respondent herein and as such the Tahsildar called for report from the first respondent. On the report submitted by the first respondent dated 11.06.2021 revealed that the said no objection certificate was not issued by the first respondent in respect of the subject land. In fact, the petitioners are not residing in the subject property and no one is living in the subject property for the past 30 years. In fact, they sold out their residence and shifted their residence to some other place. The subject land was acquired and handed over to the Revenue Department as early as on 10.10.1998 itself. Therefore, this Court finds no merits in this writ petition and the writ petition is devoid of merits and liable to be dismissed.

7. Accordingly, this writ petition is dismissed. No order as to costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

lok

To
1. The Assistant Commissioner, Urban Land Tax
   And Competent Authority of Urban Land Ceiling,
   Ezhilagam, Chepauk,
   Chennai 600 005.
2. The Commissioner and Secretary to Government,
   Government of Tamilnadu,
   Revenue Department,
   Chennai 600 009.

+1cc to the Government Pleader, S.R.No.68667

WP.No.612 of 2015

SMI(CO)
RLP(07/01/2022)