IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.21128 of 2018

V.Velayutham ... Petitioner

Vs.

1. The Secretary,
Government of Tamil Nadu,
Revenue Department,
Fort St.George,
Chennai – 600 009.

2. The Commissioner,
Commissioner of Land Reforms,
Ezhilagam,
Chennai.

3. The Assistant Commissioner,
Urban Land Tax, Tambaram (E)
Adambakkam,
Chennai – 600 080. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to order O.M.No.1918/2016 dated 20.12.2017 issued by the third respondent and quash the same consequently direct him to grant patta in the name of the petitioner for the property situated at Plot No.82 at Karpagam Avenue basis on approved layout sanctioned in DTP No.M83-145, L.P.No.1681 comprised in Survey No.93/1, Patta No.83 in No.23, Vengadamangalam Village, Chengalpattu, Kattankolathur Panchayat Union.

For Petitioner : Mr.S.G.Ramesh Kumar

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 from the second respondent relating to the order bearing No.M.R.I./15-K/37/72/PPN/A2, dated 28.07.2011 and quash the same and consequently direct the second respondent to execute the sale deed in favour of the petitioners for the land assigned to them under the order bearing No.M.R.4.57/37/72/Valangai/AA4, dated 30.04.1990 and award costs.

2. The case of the petitioner is that his mother owned a property in Plot No.82 situated at Karpagam Avenue in the approved layout sanctioned in DTP.No.M83-145, L.P.No.1681 comprised in S.No.93/1, Patta No.83 in No.23, Vengadamangalam Village, Chengalpattu by the registered sale deed dated 20.08.1986, vide document No.564 of 1986. Thereafter, she settled the property in favour of her son viz., the petitioner by the registered settlement deed dated 24.07.2013, vide document No.10208 of 2013. When the petitioner applied for patta, he came to understand that the land was already acquired under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (hereinafter referred to as 'the Act' for short). Therefore, the petitioner submitted his representation for regularisation the sale deed as well as the settlement deed as contemplated under G.O.Ms.565, Revenue Department, dated 26.09.2008. However, the third respondent rejected the request of the petitioner by the impugned order dated 20.12.2017 for the reason that G.O.Ms.565, Revenue Department, dated 26.09.2008 said that the Government Order is applicable only for the for the sale deed prior to 26.09.2008. Though the petitioner's mother purchased the said property on 20.08.1986, she settled the property in favour of the petitioner only on 24.07.2013. Therefore, the request of the petitioner was rejected.

3. The learned counsel for the petitioner submitted that though the said property was settled in favour of the petitioner on 24.07.2013, originally his mother purchased the property by the sale deed dated 20.08.1986 and she is an innocent purchaser. Therefore, G.O.Ms.565, Revenue Department, dated 26.09.2008 is very much applicable to the petitioner. In fact, the petitioner's mother purchased the property from the approved layout in DTCP

under sanction No.DTP.No.M83-145, L.P.No.1681 and therefore, the subject property is not covered under the Act.

4. The respondents filed counter affidavit, from which, it reveals that the land in question was settled to the petitioner by his mother by way of settlement deed dated 24.07.2013, vide document No.10208 of 2013. Therefore, the said G.O.Ms.565, Revenue Department, dated 26.09.2008 was issued for regularisation of the land purchased under the category of the innocent buyers, could be done only in respect of the lands purchased through sale deed put up on 26.09.2008. Hence, the petitioner's claim as per the settlement deed dated 24.07.2013 would not be considered, in particular, after the Government Order in G.O.Ms.565, Revenue Department, dated 26.09.2008 and another Government Order in G.O.Ms.No.63, Revenue Department, dated 27.01.2020. By Government Order in G.O.Ms.No.63, Revenue Department, dated 27.01.2020, the Government directed that all the transactions done through registered deed by the innocent buyer and not the original land owner where land was acquired under erstwhile Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (Tamil Nadu Act No.24 of 1978) (i.e.) through Settlement Deed, Partition Deed, Gift Deed, Release Deed, Exchange Deed, etc., can be considered for the regularization under the Innocent Purchasers Scheme, subject to the criterion that the sale should have been effected before the land is settled in favour of any person for valuable consideration or gifted or released or portioned or settled or exchanged to the present petitioner through a valid registered deed and petition received from the Innocent Purchasers be entertained after scrutiny and verification of the genuineness of the transaction.

5. Accordingly, the petitioner is entitled to regularise his property under G.O.Ms.No.63, Revenue Department, dated 27.01.2020. As per the said Government Order, admittedly the petitioner's mother has purchased the subject property by the sale deed dated 20.08.1986 viz., before G.O.Ms.565, Revenue Department, dated 26.09.2008. Thereafter, on 24.07.2013, she executed settlement deed in favour of the petitioner, registered vide document No.10208 of 2013 to an extent of 4268 sq.ft. As per G.O.Ms.649, Revenue Department, dated 29.07.2008, there was limitation to extent of 1.5 grounds for regularisation. It was subsequently extended by the said G.O.Ms.565, Revenue Department, dated 26.09.2008 and if a person had purchased more than 3

grounds, he has to pay 3 times of the value of the said land for regularisation.

6. A careful reading the above Government Orders would go to show that it has been issued only to protect the interests of the innocent purchasers who had/have purchased the lands covered under the Act. Therefore, the reason cited by the third respondent in the impugned order is untenable, as the Government Order in G.O.Ms.No.63, Revenue Department, dated 27.01.2020 has extended the relief in respect of the settlement deed also. It also contemplates relief to such of those persons, who have purchased small pieces of land being unaware of the fact that the lands were subject matter to Urban Land Ceiling Proceedings.

7. In the light of above discussion, the impugned order passed by the third respondent is liable to be set aside and the petitioner is entitled to relief as sought for in this Writ Petition.

8. In the result, this Writ Petition is allowed and the impugned order is set aside. The third respondent is directed to regularise the plot settled in favour of the petitioner herein by the settlement deed dated 24.07.2013 as per G.O.Ms.No.63, Revenue Department, dated 27.01.2020 and pass appropriate orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
   Government of Tamil Nadu,
   Revenue Department,
   Fort St.George, Chennai – 600 009.

2. The Commissioner,
   Commissioner of Land Reforms,
   Ezhilagam,
   Chennai.

3. The Assistant Commissioner,
   Urban Land Tax, Tambaram (E)
   Adambakkam,
   Chennai – 600 080.

+1cc to the Government Pleader, S.R.No.51243

W.P.No.21128 of 2018

BS(CO)
SB(01/11/2021)