IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.8811 of 2015
and
M.P.No.2 of 2015

1. Rajendra Pal Singh
2. Sardarini Sumita Chadha ...Petitioners

Vs.

1. The Principal Commissioner and
 commissioner of Land Reforms,
 Chepauk, Chennai - 600 005.

2. The Competent Authority,
 Urban Land Ceiling,
 Ambattur, Chennai - 600 053.

3. The Tahsildhar,
 Ambattur, Chennai - 600 053. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records of the respondents, especially the order of the second respondent dated 09.09.1995 under Section 9(5) and notification under Section 11(5) dated 27.07.1998 vide Ref.No.NAKA.4951/93-A-1 and A-2/4957/93 of Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 in respect of lands in Survey Nos.186/1 and 189 measuring an extent of 850 sq.mts and 450 sq.mts respectively in Athipattu Village, Ambattur Taluk and quash the same and direct the respondents to treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, (Act 20 of 1999), so as to enable the third respondent to incorporate the name of the petitioners as owners of the land in Survey Nos.186/1 and 189 in Athipattu Village, Ambattur Taluk issue patta.

For Petitioners: Mr.V.Ramesh
for Mr.T.Thiyagarajan

For Respondents: Mr.Richardson Wilson
Government Advocate

O R D E R

This writ petition is filed to issue a writ of Certiorarified Mandamus, calling for the records of the respondents, especially the order of the second respondent dated 09.09.1995 under Section 9(5) and notification under Section 11 (5) dated 27.07.1998 vide Ref.No.NAKA.4951/93-A-1 and A-2/4957/93 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (hereinafter referred to as 'the Act' for short) in respect of lands in Survey Nos.186/1 and 189 measuring an extent of 850 sq.mts and 450 sq.mts respectively in Athipattu Village, Ambattur Taluk and quash the same and direct the respondents to treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, (Act 20 of 1999), so as to enable the third respondent to incorporate the name of the petitioners as owners of the land in Survey Nos.186/1 and 189 in Athipattu Village, Ambattur Taluk and issue patta.

2. The case of the petitioners is that he purchased the land ad-measuring 33 cents in S.No.186 by the registered sale deed dated 02.05.1984, vide document No.1898 of 1984 from Selvaraj and to an extent of 11 cents comprised in S.No.189 by the registered sale deed dated 18.07.1984, vide document No.3115 of 1984 from one P.Sriramlu Reddy. After purchasing the said lands ad-measuring 44 cents, they converted the said lands from agricultural usages to industrial purposes and obtained SSI Certificate for manufacturing and processing of shearing and annealing of M.S.Steels and Angels in the name and style of M/s.Harmeet Enterprises. The said lands were within the ceiling limit prescribed under Section 5(i) & (iii) of the Act. In the order dated 09.01.1991 passed by the second respondent, it is stated that the land ad-measuring 1800 sq.ft is within the ceiling limit of the petitioners. It was preceded by a notice under Section 9(4) Act and draft statement under Section 9(1) of the Act dated 29.10.1990, vide Ref.SR 35/90. In fact, an order dated 16.12.1998 under Section 9(5) of the Act was passed holding that the petitioners' lands are within the ceiling limit. However, the petitioners were served with notice dated 16.11.1999 under Section 12(6) of the Act to appear for enquiry to be held on 27.12.1999. Thereafter, the petitioners came to understand that the lands comprised in S.Nos.186 and 189 have been acquired again under the Act. An order was passed under Section 9(5) of the Act dated 09.09.1995, followed by the notice under Section 11(5) of the Act dated 27.07.1998, acquiring excess vacant lands of 850 sq.mts and 450 sq.mts respectively in S.Nos.186 and 189 situated at Athipattu Village. Therefore, the petitioners filed an appeal under Section 33 before the second respondent. However, the Act itself was repealed by the Act

20/99 from 16.06.1999 and under Section 4 of the Act 20/99, it was declared that all proceedings shall abate, provided possession of excess vacant land was not taken. Even then, no order has been passed in the appeal and as such, the petitioners filed another petition and by the endorsement dated 23.10.2008, the first respondent stated that lands in S.Nos.186 and 189 of Athipattu Village were not affected by the provisions of the Act, since the possession of the excess vacant land has not been taken over by the Government. However, the petitioners were refused to issue patta for the said lands.

3. From the counter affidavit filed by the respondents, it reveals that, after passing orders under Section 9(5) of the Act were served by affixture on 31.10.1995 in the presence of Village Administrative Officer, the final statement under Section 10(1) of the Act was issued on 31.03.1996. Later, the notification under Sections 11(1) and 11(3) was published in the Tamil Nadu Government Gazette in Nos.94 and 41 dated 19.03.1997 and 22.10.1997 respectively. Later final notice under Section 11 (5) of the Act was issued on 27.07.1998. Finally, the possession of the excess vacant land was handed over to the Revenue Authorities on 07.01.1999. Therefore, after following the formalities under the Act, the excess vacant land was acquired and thereafter, notice under Section 12(7) of the Act was issued on 16.11.1999 to determine the amount payable under Section 12 (6) of the Act. Thereafter, the amount of Rs.2,600/- was kept in Revenue Deposit on 21.03.2006.

4. The learned counsel for the petitioners vehemently contended that, already on two occasions, by orders dated 09.01.1991 and 16.12.1998 the proceedings under Section 9(5) of the Act were dropped in respect of the subject lands. That apart, even till today, the possession has not been taken over by the respondents and the petitioners availed term loan from the National Small Industries Corporation in the name of their Company viz., M/s.Harmeet Enterprises and they are running a factory and it was assessed to all property tax with Ambattur Municipality. The petitioners' Company also obtained electricity service connection and they are paying electricity consumption charges regularly. Therefore, the petitioners were never served with the notice under Section 11(5) of the Act and the possession has not been handed over to the authorities concerned.

5. On a perusal of the counter affidavit, it also reveals that though the respondents stated that notice under Section 11 (5) of the Act was issued on 27.07.1998, there is absolutely no evidence to show that it was served on the petitioners and that they have voluntarily surrendered their possession and enjoyment of the subject properties viz., to an extent of 1350 sq.mts

comprised in S.Nos.186 and 450 Sq.Mts comprised in S.No.189 situated at Athipattu Village, Ambatur Taluk.

6. That apart, from the documents produced by the petitioners, it reveals that the subject lands have been assessed to the property tax and they are regularly paying the property tax to the Ambattur Municipality. From the order dated 09.01.1991, it reveals that action under Section 9(5) of the Act in the subject lands were dropped and the above mentioned properties were treated as lying within the ceiling limit. Further, the proceedings dated 16.12.1998 passed by the Competent Authority of Urban Land Ceiling and Assistant Commissioner of Urban Land Tax, Ambattur @ Chennai – 600 053, it reveals that further action under Section 9(5) of the Act was dropped and the subject properties were treated as lying within their ceiling limit. The endorsement dated 23.10.2008, reads as follows:-

> "An extent of 1300 Sq.Mts in S.Nos.186 and 189 of Athipattu Village which was acquired under the TamilNadu Urban Land (Ceiling and Regulation) Act, 1978, from M/s.Harmeet Enterprises, is released from the Urban Land Ceiling Act, since the possession of the excess vacant land was not taken over by the Government from the person who is possession of the land and therefore the said extent of 1300 Sq.Mts in S.Nos.186 and 189 of Athipattu Village is not attracted by the provisions of the Tamilnadu Urban Land (Ceiling and Regulation) Act, 1978 and Repeal Act 20/99."

7. In view of the above discussion, the impugned proceedings are quashed. The third respondent is directed to restore the Revenue records in the name of the petitioners in the lands comprised in Survey Nos.186/1 and 189 and issue patta to the petitioners within a period of six weeks from the date of receipt of a copy of this order.

8. In the result, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Principal Commissioner and
   commissioner of Land Reforms,
   Chepauk, Chennai - 600 005.

2. The Competent Authority,
   Urban Land Ceiling,
   Ambattur, Chennai - 600 053.

3. The Tahsildhar,
   Ambattur, Chennai - 600 053.

W.P.No.8811 of 2015

GPL(CO)
SP(01/11/2021)