IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.10549 of 2020

C.Arul .. Petitioner

Vs.

1. The State of Tamil Nadu,
   Represented by its Secretary to Government,
   Revenue and Disaster Management Department,
   ULC (1(2) Wing, Secretariat, Fort St. George,
   Chennai - 600 009.

2. The Special Commissioner,
   Urban Land Ceiling and Urban Land Tax,
   Ezhilagam building, ground floor,
   Chepauk, Chennai - 600 005.

3. The Assistant Commissioner,
   Urban Land Ceiling and Urban Land Tax,
   Alandur, 153, Karuneegar Street,
   Adambakkam, Chennai 600 088.

4. The Tahsildar,
   Sholinganallur Office,
   Sholinganallur. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Mandamus to direct the respondents to regularize the 1200 sq ft house site plot of the Petitioner in survey no.722/1 in Pallikarnai Village, Kancheepuram District, under the innocent purchaser category in terms of G.O. Ms. No.649 revenue department dated 29.07.1998 and G.O. Ms. No.565 revenue department dated 29.09.2009 within a time frame fixed by this Court and direct the 3rd and 4th respondent to protect and assure the vacancy of the petitioners plot till regularization from the outsiders.

For Petitioner : Mr.T.K.S.Bharathy Anandraj

For Respondents : Mr.R.P.Prathap Singh,
Government Advocate

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ORDER

The petitioner has sought a mandamus directing the respondents, the State of Tamil Nadu, Secretary to Government, Revenue and Disaster Management Department/R1, The Special Commissioner, Urban Land Ceiling and Urban Land Tax/R2, The Assistant Commissioner, Urban Land Ceiling and Urban Land Tax/R3 and the Tahsildar, Sholinganallur Office/R4, to regularize the 1200 sq ft house site plot in survey no.722/1 in Pallikarnai Village, Kancheepuram District, (in short site/site in question) which has been purchased by the petitioner in the year 1997 in terms of G.O. Ms. No.649 revenue department dated 29.07.1998 and G.O. Ms. No.565 revenue department dated 29.09.2009.

2. The background of the matter is that the site in question had been purchased by the petitioner on 09.10.1997 from one M.S.Sultan Ibrahim and the document registered as Doc. No.4155 of 1997 before the South Chennai Registration District, Saidapet Joint I Sub Registrar Office, Kancheepuram District. The petitioner claims to be in a peaceful possession thereof since 1997. In 2015, he had approached the authorities for obtaining sanction for a plan for construction of a residential house when it is brought to his notice that the site is covered under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. It was only thereafter that he came to know that his site, being part of a larger extent of 16,000 sq ft, had been subjected to Urban Land ceiling proceedings and that he had purchased the site without knowledge of the same.

3. An application thus came to be filed by him on 18.02.2015 under the 'Innocent Buyers scheme' that was rejected by R1 by order dated 17.09.2020, stating follows:

> 'The petitioner is hereby informed that the land in S.No.722/1 of Pallikaranai village was acquired under the Tamil Nadu Urban Land (Ceiling & Regulation) Act 1978 and the same was allotted to the Tamil Nadu Slum Clearance Board vide G.O.(MS). No.463 Revenue ULC 1 (2) dated 20.09.2010. Against the above one, Thiru M.S.Mohamed Ibrahim filed Writ Petition in W.P. No.11922 of 2011. The Hon'ble High Court in its order dated 21.09.2016 in W.P. No.11922 of 2011 allowed the writ petition. Against the same Writ Appeal has been filed and numbered as W.A. SR. No.107572/2018 and the same is still pending in the Hon'ble High Court.
>
> In view of the above the request of the petitioner and the eligibility of petitioner under the Innocent Buyer scheme cannot be considered at this stage.'

4. Admittedly, acquisition proceedings in this matter were challenged by way of two Writ Petitions, WP.No.11922 of 2011

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filed by the power agent of the legal heirs of the original purchaser M.S.Sultan Ibrahim and W.P.No.13821 of 2012 filed by the legal heirs themselves. Both writ petitions came to be allowed on 21.01.2016 and at paragraph Nos.18 & 19 of W.P.No.11922 of 2011, it is held as follows:

> '18. Per contra, the learned counsel appearing for the petitioners has submitted that the husband of the power agent produced all the original documents pertaining to the subject land. The father of the first petitioner had purchased the subject land under a registered Sale Deed, dated 28.05.1963, from one M.P.Mohideen Pitchai. Subsequently, all the documents have been mutated in the name of the petitioners' father. At the time of initiating the acquisition proceedings, all the relevant records stood in the name of the petitioners' father. As per the proceedings, dated 04.02.2011, it is clearly proved that the subject land stood in the name of Sulthan Ibrahim. Therefore, the acquisition proceedings initiated against Kamala Sethe is not relevant.
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> 19. On considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, it is seen that the first petitioner's father Sulthan Ibrahim had purchased the subject land from M.P.Mohideen Pitchai under a registered Sale Deed, dated 28.05.1963, on the file of the Sub-Registrar, Saidapet. Besides, Patta bearing No.286 has been issued by the Tahsildar, Saidapet. Further, there are no records to show that the respondents are in physical possession of the subject land. Therefore, the writ petition is allowed. Further, it is seen that the subject land is still vacant as pert the first respondent's proceedings, dated 28.03.2011. Further, the subject land had been handed over to the revenue authorities on 12.12.1995. During the relevant period, the subject land stood in the name of first petitioner's father. Subsequently, the petitioners herein had succeeded the same. Therefore, the petitioners are at liberty to make necessary application to the respondents to discharge the subject land from the acquisition proceedings.'

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5.There is an unambiguous finding to the effect that the proceedings for acquisition initiated as against one Kamala Sathe are not valid as the subject site stood in the name of the father of the petitioners in the Writ Petitions from whom the petitioner in this writ petition has purchased the same.

6. Though the petitioners therein were granted liberty to make necessary application to discharge the acquisition

proceedings, neither the learned counsel for the petitioner herein nor the learned Government Advocate are in a position to confirm whether this has been done. Nonetheless, order dated 21.01.2016 has attained finality and in spite of the elapse of four (4) years, only an SR.No.107572/2018 for filing of a writ appeal is produced. I need hardly take this into account. Consequent upon order of this Court dated 21.01.2016, it is incumbent upon the respondents to regularise the site as per the application of the petitioner dated 18.02.2015.

7. This Writ Petition is allowed and R2 is directed to pass orders regularising the purchase of the site in question by the petitioner within a period of four (4) weeks from date of uploading this order. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government , The State of Tamil Nadu,
Revenue and Disaster Management Department,
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Adambakkam, Chennai 600 088.

4. The Tahsildar, Sholinganallur Office,
Sholinganallur.

+1 CC.to Mr.TKS.Bharathy Anandraj, Advocate, Sr.No.6262
+1 CC.to Government Pleader, Highcourt, Madras, Sr.No.6079
GSM(CO)

SM/25/02/2021

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