

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.02.2021
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.17394 of 2020

S.Dhanasekaran

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Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. By its Secretary to Government,
Revenue Department,
Secretariat,
Fort. St. George,
Chennai - 600 009.

2. The District Collector,
Chennai.

3. The Tahsildar,
Sholinganallur Taluk,
Sholinganallure.

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Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to consider petitioner's representation dated 04.11.2019 and transfer the patta in his name in respect of his lands of an extent of 1798 Sq.ft. bearing Plot No.153/A, 6th Cross Street, Thilagar Avenue, Balaiha Garden, Madipakkam, Chennai - 600 091 comprised in Survey No.222 and 223 and Survey Nos.222/39 of Madipakkam Village, Sholinganallure Taluk.

For Petitioner : Mr.AL.Gandhimathi

For Respondents: Mr.V.Shanmuga Sundar,
Special Government Pleader

ORDER

Mr.V.Shanmuga Sundar, learned Special Government Pleader accepts notice on behalf of the respondent.

2. By consent of both the parties, this writ petition is taken up for final disposal at the time of admission itself.

3.This writ petition has been filed for a Mandamus seeking for a direction to the respondents to consider the petitioner's representation dated 04.11.2019 seeking for transfer of patta in his name in respect of the property measuring an extent of 1798 sq. ft. bearing Plot No.153/A, 6th Cross Street, Thilagar Avenue, Balaiha Garden, Madipakkam, Chennai - 600 091 comprised in Survey Nos.222 and 223 and Survey Nos.222/39 of Madipakkam Village, Sholinganallore Taluk, within a time frame to be fixed by this Court.

4. The case of the petitioner is that he purchased the aforementioned property under a Sale Deed dated 26.02.1986 registered as document No.514/1986. According to him, his vendor was having a patta for the property. It is the case of the petitioner that subsequent to his purchase, urban land ceiling proceedings have been initiated in respect of the aforementioned property on 05.09.1990. According to him, the respondents did not take possession of the petitioner's property. According to him, since the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 got repealed by Act 20 of 1999, he is entitled for patta for his property. According to him, he will also not come under the innocent purchaser category as his vendor namely B.Padmavathi Ammal was in possession of a patta for the subject property. The petitioner has therefore given a representation on 04.11.2019 to the respondents seeking for transfer of patta in his name from the name of his vendor B.Padmavathi Ammal. Since the said representation has not been considered, this writ petition has been filed.

5. Heard Ms.Gandhimathi, learned counsel for the petitioner and Mr.V.Shanmuga Sundar, learned Special Government Pleader appearing for the respondents.

6. The learned counsel for the petitioner drew the attention of this Court to the Notification, dated 05.09.1990 issued under the Tamil Nadu Government Gazette, whereby the petitioner's lands and other lands were acquired under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. She also drew the attention of this Court to the sale deed dated 26.02.1986, whereby the petitioner had purchased the subject property. She would submit that the purchase made by the petitioner was much prior to the proceedings initiated by the respondents under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978.

7. The learned counsel for the petitioner drew the attention of this Court to the Chitta issued by the respondents, which discloses the name of the petitioner and she would submit that as per the revenue records, the possession is only with the petitioner. The learned counsel for the petitioner drew the

attention of this Court to the counter affidavit filed by the respondents and in particular, she referred to the following paragraphs :

It is submitted that in the meantime the Secretary of Balaiah garden Thilakar Avenue had filed a writ petition in W.P. No.14486 of 92 before the Hon'ble High Court and stay order was issued on 22.09.1993 and it was made absolute on 18.03.1997. This case was disposed on 16.12.1999 and the copy of the order was not received in this department. One Thiru K.Balakrishnan filed a petition under innocent buyer category along with a copy of Judgment dated 16.12.1999. In the above order the Hon'ble High Court has observed as follows :-

"In view of the fact that by the introduction of Act 20 of 1999 (The Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act 20 of 1999 the Principal Act 1978 has been repealed, the relief sought for in the writ petition is no longer in existence".

It is submitted that since the lands have been changed in the name of Government of Tamil Nadu, many applications have been received in the office of the Assistant Commissioner (Urban Land Tax) Alandur for regularisation under Innocent Buyers Category. The Assistant Commissioner (Urban Land Tax) Alandur in his letter dated 02.12.2008 sought for clarification from the Commissioner of Land Reforms. The Commissioner of land reforms got the opinion of the Government Pleader. The Government Pleader has opined as follows :-

"It is now admitted that possession could not be taken due to the interim order granted by the Hon'ble High Court and in term of section 4 of Repealing Act 20 of 1999, once possession has not been taken the proceedings automatically abate and there is no question of preferring any writ appeal against the said order, when admittedly the possession has not been taken. It is open to the Department to consider the request of the applicants in the category of innocent purchasers".

8. After referring to the above paragraph, the learned counsel for the petitioner submits that the respondents have made it clear that it is open to the department to consider the request of the applicants in the category of innocent purchaser. However, she would submit that the petitioner will not fall under the said category as he has purchased the subject property

much prior to the date of Notification, dated 05.09.1990 issued under the Tamil Nadu Government Gazette.

9. Per contra, learned Special Government Pleader appearing on behalf of the respondents would submit that the petitioner has filed a petition only under the innocent buyer category on 30.01.2019. Hence, the representation of the petitioner dated 04.11.2019 can be considered only under the said category, which is disputed by the learned counsel for the petitioner. However all these factors can be considered by the respondents as and when the petitioner's representation dated 04.11.2019 is considered on merits and in accordance with law.

10. The learned Special Government Pleader appearing for the respondents would submit that the representation of the petitioner will have to be considered by the Assistant Commissioner (Urban Land Tax), Alandur, who has signed the counter affidavit on behalf of the respondents.

11. After recording the submissions made by the learned Special Government Pleader, this Court directs the Assistant Commissioner (Urban Land Tax), Alandur, to consider the petitioner's representation, dated 04.11.2019 seeking for transfer of patta in the name of the petitioner in respect of the lands measuring an extent of 1798 sq. ft. bearing Plot No.153/A, 6th Cross Street, Thilagar Avenue, Balaiha Garden, Madipakkam, Chennai - 600 091 comprised in Survey Nos.222 and 223 and Survey Nos.222/39 of Madipakkam Village, Sholinganallore Taluk and pass final orders on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.

12. With the aforesaid direction, this writ petition is disposed of. No costs.

Sd/-

सत्यमेव जयते
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

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

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2. The District Collector,
Chennai.

3. The Tahsildar,
Sholinganallur Taluk,
Sholinganallure.

4.The Assistant Commissioner
(Urban Land Tax) Alandur

+1 cc to M/s.AL.Gandhimathi Advocate sr11318

+1 cc to the Government Pleader sr11917

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