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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.22476 of 2017

S.M.Mohan Kumar

... Petitioner

-Vs-

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Revenue Department, Secretariat,
Fort St.George, Chennai-9.
2. The Tahsildar,
Sholinganallur Taluk, OMR,
Chennai.
3. The Commissioner,
Urban Land Ceiling and Tax,
Chepauk, Chennai-600 005.
4. The Assistant Commissioner,
Urban Land Tax,
Alandur, Chennai.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration, declaring that the land comprised in Survey Nos. 119/2A2; 119/3A; 120/1B and in Survey No.118/2C4 and 3A3 bearing Plot Nos.1056 (Western Half), measuring 2400 sq.ft. situated at 10th Main Road, Ram Nagar South, Madipakkam Village, Chennai - 600 092 belonging to the petitioner does not attract the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 or Section 3(1)(a) of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 and consequently directing the second respondent to issue patta as requested in the petitioner's application for the land comprised in Survey Nos. 119/2A2; 119/3A; 120/1B and in Survey No.118/2C4 and 3A3 bearing Plot Nos.1056 (Western Half), measuring 2400 sq.ft. situated at 10th Main Road, Ram Nagar South, Madipakkam Village, Chennai - 600 092.



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For Petitioner : M/s R.J.Radhika

For R1 to R4 : Mr.M.R.Gokul Krishnan
Government Advocate.

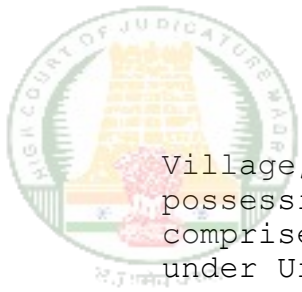
ORDER

This Writ Petition has been filed for issuance of a Writ of Declaration, declaring that the land comprised in Survey Nos. 119/2A2; 119/3A; 120/1B and in Survey No.118/2C4 and 3A3 bearing Plot No.1056 (Western Half), measuring 2400 sq.ft. situated at 10th Main Road, Ram Nagar South, Madipakkam Village, Chennai - 600 092 belonging to the petitioner does not attract the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 or Section 3(1)(a) of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 and consequently directing the second respondent to issue patta as requested in the petitioner's application for the land comprised in Survey Nos. 119/2A2; 119/3A; 120/1B and in Survey No.118/2C4 and 3A3 bearing Plot No.1056 (Western Half), measuring 2400 sq.ft. situated at 10th Main Road, Ram Nagar South, Madipakkam Village, Chennai - 600 092.

2. Heard M/s.R.J.Radhika, learned counsel appearing for the petitioner, Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents.

3. The case of the petitioner is that the land comprised in Survey Nos. 119/2A2; 119/3A; 120/1B ad-measuring 2400 sq.ft. bearing Plot No.1056 (Western Half), situated at Madipakkam Village, Sholinganallur Taluk, Kancheepuram District is duly approved by the appropriate Authority as a lay-out in Layout No. L.P.D.M/D.D.T.P.No.310/1973. One Dr.N.Parthasarathy, originally owned a larger extent of the property and he sought for lay-out plan and the Authority, sanctioned the lay-out plan known as Ram Nagar. The subject house plot was purchased by one Shanaz Begaum by a registered sale deed, dated 19.05.1992. In turn, she sold out the house plot by a registered sale deed, dated 15.04.1999 in favour of one L.Venkatalakshmi. In turn, she sold the same by a registered sale deed, dated 26.02.2001 in favour of one P.Siva Kumar. The petitioner had purchased the said house plot from the said P.Siva kumar by a registered sale deed, dated 29.01.2003, registered vide Document No.319 of 2003. After purchase, the petitioner had applied for patta before the second respondent.

4. However, the said application was rejected for the reason that the petitioner have purchased the house plot comprised in Survey Nos.119/2A2, 119/3A and 120/1B of Madipakkam



Village, Sholinganallur Taluk. However, the petitioner is in possession and enjoyment of the house plot in Plot No.1056, comprised in Survey Nos. 118/2C4 and 3A3 and the said land is under Urban Land Ceiling proceedings.

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5. The fourth respondent filed a counter which reveals that the land comprised in Survey Nos.118/1, 2 and 3, situated at Madipakkam Village, to an extent of 3550 sq.meters and the land comprised in T.S.No.278 and 211, ad-measuring 870 sq.meters situated at Kodambakkam Village belonged to one S.Gopalakrishnan. He filed a statement under Section 6(1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. After allowing family entitlement of 1500 sq.meters and extent of 2920 sq.meters was treated as surplus land in Survey Nos. 118/1C (906 sq.meters), 118/2C (1514 sq.meters) and 118/3A3 (500 sq.meters) of Madipakkam Village. After acquisition proceedings, the said land has been duly vested with the Government. The amount payable under Section 12(6) of the Act was determined as Rs.1460/- (Rupees One Thousand Four Hundred and Sixty only) and the notice under Section 12(7) was sent to the urban land owner on 27.06.1997. Since, he did not turn out, the amount was kept in Revenue Deposit. Further, the counter reveals that the land comprised in Survey No. 118/1C, 2C and 3A3 alone were vested with the Government as surplus land.

6. Further, stated that "It is not known as to whether the lands mentioned in Survey.No. 119/2A2, 3A and 120/1B are subsequent sub-divisions of the said land in Survey No.118". Hence the contentions of the petitioner deserves no consideration. Admittedly, the petitioner had purchased the house plot in Plot No.1056, comprised in Survey No.119/2A2, 119/3A and 120/1B, situated at Madipakkam Village, Sholinganallur Taluk, Kanchipuram District.

7. As stated supra, the said house plot was a lay-out from the larger extent of land in Lay out No. L.P.D.M/D.D.T.P.No.310/1973 by the appropriate authority owned by one Dr.N.Parthasarathy. In turn, the house plots were purchased by third parties and finally purchased by the petitioner by a registered sale deed, dated 29.01.2003.

8. The above said acquisition proceedings is no way connected with the property purchased by the petitioner from the approved lay-out in Lay out No. L.P.D.M/D.D.T.P.No.310/1973. Even assuming that the said property was under the acquisition proceedings of the Tamil Nadu Land (Ceiling and Regulation) Act, 1978, the petitioner is in possession and enjoyment of the subject property. As per the repeal act of Section 3(1)(a) of the Urban Land (Ceiling and Regulation) Repeal Act, 20/1999, which came into force on 16.06.1999, if possession is not taken



in terms of the original Act, all the proceedings under the old Act, shall stand abated.

9. Therefore, the second respondent, without application of mind, mechanically rejected the request made by the petitioner for issuance of patta and it cannot be sustained as against the petitioner and it is liable to be set aside.

10. The second respondent is directed to issue patta in favour of the petitioner on the strength of the sale deed, dated 29.01.2003, registered vide Document No. 319 of 2003, within a period of four weeks from the date of receipt of a copy of this order.

11. Accordingly, the impugned order passed by the second respondent in DIS. R.P.T. O.P.T. 2016/0103/03/019221, dated 23.09.2016 is hereby set aside.

12. With the above direction, this writ petition stands allowed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
The State of Tamil Nadu,
Revenue Department, Secretariat,
Fort St.George, Chennai-9.
2. The Tahsildar,
Sholinganallur Taluk, OMR,
Chennai.
3. The Commissioner,
Urban Land Ceiling and Tax,
Chepauk, Chennai-600 005.



4. The Assistant Commissioner,
Urban Land Tax,
Alandur, Chennai.

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+2ccs to M/s.R.J.Radhika, Advocate, S.R.No.55891

+1cc to the Government Pleader, S.R.No.56699

W.P.No.22476 of 2017

GPL(CO)
SU(15/11/2021)