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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.4008 of 2013

P.Palanisamy
Rep. by his registered
Power Agent,
V.Ramasamy

... Petitioner

-Vs-

1.The Assistant Commissioner
Urban Land Tax,
Coimbatore - 18.

2.The Special Commissioner and
Commissioner of Urban Land
Ceiling and Urban Land Tax,
Chepauk, Chennai - 600 005.

3.The Join Sub Registrar No.2,
Coimbatore - 1.

4.The Tahsildar,
Coimbatore South,
Coimbatore - 18.

5.Dhanapackiam
6.Devinayakam
7.Agilandeswari
8.Balasubramaniam
9.Lakshmi
10.Venugopal
11.Selvi

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in Na.Ka.514/95 A2 dated 28.07.1997 quash the same, direct the respondents 1 to 4 to give effect to the order of the first respondent in Mu.Mu.510/1995 dated 28.01.1988, consequently direct the fourth respondent to delete classification as Government Poramboke in the revenue records in respect of the land in survey No.189, Perurchettypalayam, Coimbatore (South Taluk) within a stipulated time.



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For Petitioner : Mr. A.Sivaji
For Respondents : Mr.A.M.Ayyadurai
For R1, R2 & R4 : Government Advocate.
For R3 : Mr.Yogesh Kannadasan
Special Government Pleader.

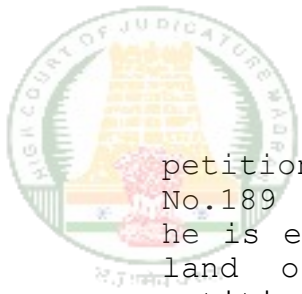
ORDER

The Writ Petition has been filed to call for the records of the first respondent in Na.Ka.514/95 A2 dated 28.07.1997 quash the same, direct the respondents 1 to 4 to give effect to the order of the first respondent in Mu.Mu.510/1995 dated 28.01.1988, consequently direct the fourth respondent to delete classification as Government Poramboke in the revenue records in respect of the land in survey No.189, Perurchettipalayam, Coimbatore (South Taluk) within a stipulated time.

2. The land to an extent of 6.66 acres of agricultural land comprised in survey No.189 situated at Perurchettipalayam, Coimbatore, originally belonged to one Palaniyammal. She sold the said land to seven persons including the petitioner. The petitioner purchased the land to an extent of 0.70 cents agricultural land by the registered sale deed dated 03.04.1989 vide document No.1027 of 1989 from the said Palaniyammal. Thereafter, the petitioner has taken steps to sell the same in favour of the third party.

3. However, during the year 1990, the first respondent had taken action as against the originally owner as well as against the seven purchasers under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (herein after referred to as "the Act"). Aggrieved by the same, an appeal was filed before the second respondent and the same was allowed and remanded the matter back to the Competent Authority to decide the individual holdings of the seven purchasers by considering their eligibility to hold. In pursuant to the said order, the first respondent by an order dated 28.01.1998 holding that the lands are agricultural lands and it would not attract the Act. Among the seven purchasers, one M.Palanisamy died on 07.07.1994 and the respondents 5 to 11 are his legal heirs. Other two purchasers are also passed away and among the seven purchasers four purchasers are existing.

4. Further, the first respondent had dropped the proceedings by an order dated 28.01.1998. Thereafter the first respondent proceeded by his proceedings dated 28.07.1997, thereby declared the surplus land to an extent of 4166 sq.mt., in the holdings of the petitioner. Further stated that the



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petitioner hold 1.40 acres (5666 sq.mt.,) comprised in survey No.189 situated at Peruchettipalayam Village, Coimbatore and he is eligible to hold 1500 sq.mt., and therefor, the surplus land of 4166 sq.mt. Aggrieved by the said order, the petitioner filed this present Writ Petition.

5. Heard Mr.A.Sivaji, learned counsel appearing for the petitioner, Mr.A.M.Ayyadurai, learned Government Advocate appearing for the respondents 1,2&4 and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the third respondent.

6. On perusal of the counter filed by the first respondent revealed that the petitioner did not file any return under Section 7(1) of the Act, and therefore the notice under Section 7(2) of the Act was issued on 22.06.1992. Since no response was received, the notice under Section 9(4) of the Act along with Statement under Section 9(1) of the Act was issued, thereby call upon the objections for the proposed acquisition of excess vacant land hold by him. It was served on his wife Thulasiammal on 22.01.1997. Since no objections were received, the first respondent passed order under Section 9(5) of the Act on 28.07.1997, thereby determined the excess vacant land of 4166 sq.mt., out of 5666 sq.mt. Thereafter final statement under Section 10(1) of the Act was issued on 26.11.1998 and it was served by affixture on 10.12.1998. The notification under Section 11(1) of the Act was issued on 18.12.1998 and the same was published in Government Gazeett on 14.04.1999. The notification under Section 11(3) of the Act was issued on 24.05.1999. However, before publishing the said notification under Section 11(3) of the Act, the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 was repealed by the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act (20/1999) (herein after referred to as "the Repeal Act"), with effect from 16.06.1999. After repealing the Principal Act, on 16.06.1999, further action could not be initiated viz., issuance of notice under Section 11(5) of the Act, to the petitioner requesting to deliver or surrender the possession of excess vacant land.

7. Accordingly, no possession of the subject property has been taken before the Repeal Act. In view of the Section 4 of the Repeal Act, the entire acquisition proceedings shall abate. Hence, the entire proceedings in respect of the land comprised in survey No.189 to an extent of 6.66 acres situated at Perurchettipalayam, Coimbatore, is hereby quashed. The fourth respondent is directed to mutate the revenue records in respect of the subject land in favour of the petitioner and pass orders for issuance of patta, within a period of four weeks from the date of receipt of a copy of this Order.



8. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

rts

To

1.The Assistant Commissioner
Urban Land Tax,
Coimbatore - 18.

2.The Special Commissioner and
Commissioner of Urban Land
Ceiling and Urban Land Tax,
Chepauk, Chennai - 600 005.

3.The Join Sub Registrar No.2,
Coimbatore - 1.

4.The Tahsildar,
Coimbatore South,
Coimbatore - 18.

+1cc to Mr.A.Sivaji, Advocate SR. No.5509

+1cc to Government Pleader SR. No.5693

W.P. No.4008 of 2013

SSN (CO)

PR (18/02/2022)