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W.P.No.27009 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.27009 of 2022
and
W.M.P.No.26230 & 26231 of 2022

D.Shivashankar

... Petitioner

VS.

The Assistant Commissioner (Urban Land Tax),
Office of the Assistant Commissioner,
Poonamallee, Chennai – 600 056.
Respondent

...

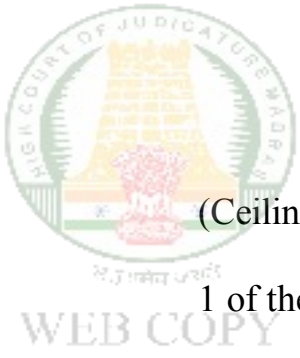
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records relating to the 1st respondent's notification under Section 11(3) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, published in Page 25 of Part VI, Section 1 of the Tamil Nadu Gazette dated 26.02.1992 and quash the same.

For Petitioner : Mr.K.Sakthivel

For Respondent : Mr.U.Bharanidharan
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the 1st respondent's notification under Section 11(3) of the Tamil Nadu Urban Land



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(Ceiling and Regulation) Act, 1978, published in Page 25 of Part VI, Section 1 of the Tamil Nadu Gazette dated 26.02.1992 and quash the same.

2.Mr.U.Bharanidharan, learned Additional Government Pleader takes notice for the respondent. In view of the limited relief sought for in this petition, on the consent expressed by the learned counsel appearing for either side, this petition is taken up for final disposal.

3.The case of the petitioner is that originally the land measuring to an extent of 2456 Sq.ft in Survey No.354/1A, M.G.R.Film Employees Colony, Nergundram Village, Ambatur Taluk was owned by one Natesa Naicker. The said Natesa Naicker executed a sale deed dated 28.11.1983 in favour of one Seelam Chandra Sekar and thereafter the said Seelam Chandrasekar transferred it to one Kanagu Durga by way of Sale Deed dated 09.07.1990, and the said Kanagu Durga sold the above said property to one Elango by way of document No.5554 of 1996 dated 02.12.1996. Thereafter, the said Elango, on 31.01.2005 executed a Sale Deed in favour of the petitioner's grandfather G.Bala Raman who executed a Settlement Deed dated 03.08.2005 settling the above said property in favour of the petitioner. When



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the petitioner approached the concerned authorities for issuance of patta, he realised that a part of the above said land has been acquired as excess land by way of notification under Section 11 (3) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, which was issued in the name of Natesa Naicker. Whereas, the said Natesa Naicker died on 22.08.1987. When the affected persons by the above said notification approached the respondent's office, it was seen that all the proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, were initiated against the dead person. Any notices sent to the said Natesa Naicker were all returned without service with an endorsement as if the said Natesa Naicker refused to receive it. While so, the large number of persons who purchased lands from the said Natesa Naicker in the S.Nos.354/1A and 1B have been living there since, 1985 but the respondent has failed to issue any notice to any of the persons including the petitioner and particularly notice under Section 11(3) was issued only in the name of the dead person.

4.In the meantime, the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 was repealed by the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 was enacted. Thereby, the possession



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having not taken by the authorities, the notification under Section 11(3) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 shall abate in view of the repeal Act, 1999 and also, the entire proceedings initiated against the dead person is vitiated. Hence, the petitioner has come forward with the present Writ Petition.

5.The learned counsel appearing for the petitioner would submit that though 11(3) notification was issued in the year 1991, whereas, the petitioner purchased the property in 2006. In view of the same, this Court may grant liberty to file appropriate application before the Government for regularising his purchase under the Innocent Purchase Scheme, in terms of the G.O. 565 dated 26.09.2008.

6.In view of the limited prayer sought for in this Writ Petition, and without expressing any opinion on the merits of the case, this Writ Petition is dismissed granting liberty to the petitioner to workout his remedy in the manner known to law. No costs. Consequently, connected miscellaneous petition are closed.

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Index : Yes/No

Speaking Order : Yes/No

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To

The Assistant Commissioner (Urban Land Tax),
Office of the Assistant Commissioner,
Poonamallee, Chennai – 600 056.

M.DHANDAPANI,J.

gba

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