



W.P.No.28758 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2022

CORAM :
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.28758 of 2022
and W.M.P.Nos.28043 to 28045 of 2022

Kodhai Raman

... Petitioner

Vs.

1.The Principal Secretary to Government,
Revenue and Disaster Management Department,
Fort St.George, Chennai – 600 009.

2.The Principal Secretary/Commissioner
Urban Land Ceiling and Urban Land Tax,
Ezhilagam, Chennai – 600 005.

3.The Tahsildar,
Sholinganallur Taluk,
Sholinganallur,
Chennai – 600 119.

4.R.Elumalai

5.S.Uma

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records of the proceedings of the second respondent Na.Ka.No.7359/2019/E2 dated 13.11.2019 and the order dated 19.10.2022 made in RC.No.E1/8889/2021 issued by the second



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respondent and quash the same.

For Petitioner : Mr.S.Thirumavalavan

For Respondents 1 to 3 : Mr.U.Bharanidharan,
Additional Government Pleader

ORDER

The petitioner has filed this petition seeking for issuance of Writ of Certiorari calling for the records of the proceedings of the second respondent Na.Ka.No.7359/2019/E2 dated 13.11.2019 and the order dated 19.10.2022 made in RC.No.E1/8889/2021 issued by the second respondent and quash the same.

2. The case of the petitioner is that the petitioner has purchased a residential plot bearing Plot No.193-C measuring to an extent of 2400 sq.ft., comprised in Old Survey No.10 and New Survey No.10/1C1A2 situated at Pallikaranai Village, Sholinganallur Taluk, Kancheepuram District. The western side of petitioner's plot is a lay out road viz., 4th cross road provided for ingress and egress for the purpose of reaching Tambaram-Velacherry Main Road. Further, the petitioner has obtained patta on her favour for the aforesaid property from the Zonal Deputy Tahsildar, Sholinganallur. This



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being the case, the fourth and fifth respondent constructed an unauthorized construction over a road portion in front of the petitioner's residential plot thereby preventing the petitioner having access to her plot. Therefore, the petitioner has made a representation dated 07.06.2018 to the Greater Chennai Corporation to take appropriate action on the unauthorized construction made by the fourth and fifth respondent, however, no steps were taken against them. Hence, the petitioner has filed a writ petition before this Court in W.P.No.25832 of 2018 against the Corporation and this Court vide its order dated 29.10.2018 disposed of the same. Pursuant to the order of this Court, the Corporation have issued a lock and key notice on 30.11.2018 and de-occupation notice dated 02.01.2019.

2.1. Further the case of the petitioner is that as against the notice issued by the Greater Chennai Corporation, the fourth and fifth respondent preferred an appeal under Section 80 of the Tamil Nadu Town and Country Planning Act before the Government. In order to reject the appeal preferred by the fourth and fifth respondents, the petitioner made another representation dated 17.10.2019. On receipt of the same, the Additional Secretary conducted an



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enquiry on the notices under Sections 56 and 57 of the Tamil Nadu Town and County Planning Act, wherein, the fourth and fifth respondent produced an order dated 13.11.2019, thereby, informing that their plot was regularized by the Government under Innocent Buyers Scheme. Thereafter, the said appeal was disposed by directing them to obtain patta and get approval for the unauthorized construction vide an order dated 24.01.2020. Subsequent to the order, the fourth and fifth respondent obtained a patta for their land comprised in S.No.9/8 to an extent of 2745 sq.ft., in Pallikaranai Village. After noticing the same, the petitioner has filed a Review Petition before the second respondent, seeking to review the order dated 13.11.2019.

2.2. While the Review Petition is pending before the second respondent, the third respondent issued notices to the petitioner to appear before him. However, on all the occasions, the third respondent was not available. Therefore, the petitioner has filed a writ petition in W.P.No.3675 of 2022 before this Court seeking for speedy disposal of the Review Petition and this Court vide its order dated 24.02.2022, directed the second respondent to consider the petitioner's review petition within a period of three



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months from the date of receipt of a copy of that order. Thereafter, the petitioner made a detailed representation dated 29.08.2022 along with the copy of the order dated 24.02.2022 and issued a lawyer's notice to the second respondent, however, the second respondent without following any due process of law, rejected the claim of the petitioner vide proceedings dated 19.10.2022. Challenging the same, the present writ petition is filed.

3. Learned counsel for the petitioner would submit that the fourth and fifth respondents have encroached the Government Poramboke land comprised in S.No.9/1A1A to an extent of 2740 sq.ft., however, without considering the said land as Government Poramboke, the second respondent regularized the land in favour of the fourth and fifth respondents is not sustainable one. Moreover, the second respondent without providing any reasonable opportunity to the petitioner, passed a proceeding dated 19.10.2022 is a clear violation of law. Therefore, he prayed for allowing this writ petition.

4. Learned Additional Government Pleader appearing for the



respondents 1 to 3 would submit that the land comprised in S.No.9/1A1A to an extent of 2745 sq.ft., is a patta land and the same is not belongs to Government. Earlier, the said land was acquired under the Urban Land Ceiling Act and without knowing the Urban Land Ceiling proceedings, the fourth and fifth respondent purchased the property. Thereafter, their purchase was regularized in terms of G.O.Nos.641 Revenue Department dated 29.07.1998 and 565 Revenue Department dated 26.09.2008. Subsequently, the petitioner has challenged the regularization order before the Revisionary authority, however, the same was rejected on the ground that the land was regularized after a collection of Rs.63,750/-from the fourth and fifth respondent in terms of aforesaid Government Orders. He further submitted that the petitioner is not the owner of the property and she has no locus standi to challenge the regularization order passed in favour of the private respondents. Accordingly, he prayed for dismissal of this writ petition.

5. Heard the learned counsel on either side and perused the materials available on record.



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6. The facts in the present case is not in dispute. Admittedly, the petitioner is not the owner of the property comprised in S.No.9/1A1A to an extent of 2745 sq.ft., however, the fact remains that originally the land was acquired from one Munusamy Naidu and the Government possessed the said land on 11.07.1997. Without knowing the urban land ceiling proceedings initiated against the said land, the fourth and fifth respondent purchased the same property from S.Bakthavatsalam Naidu on 20.06.1984 itself. Therefore, the fourth and fifth respondent made an application to regularize the said land. After the receipt of such application, the official respondents recognize their purchase and regularized the same under the Innocent Purchaser Scheme in terms of G.O.Ms.No.565 Revenue Department dated 26.09.2008 and the said regularization order was challenged by the petitioner before the revisionary authority/first respondent, however, The revisionary authority has categorically find that the private respondents are entitled for regularization in terms of aforesaid Government Order and confirmed the regularization order and dismissed the revision filed by the petitioner.



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7. Admittedly, the revisionary authority arrived a fair conclusion that the petitioner has no locus standi to challenge the regularization order and the petitioner is entitled to challenge the same, only when the land is classified as Government Poramboke land, however, in the present case on hand, the Government itself has arrived a conclusion that the land is belongs to the private respondents. Moreover, the petitioner, who is no way connected either with the aforesaid Munusamy Naidu or Bakthavatsalam Naidu, initiated the litigation against the private respondents is not sustainable one. Hence, it is clear and evident that only on misconception, the petitioner has filed this writ petition.

8. Accordingly, this writ petition stands dismissed with a cost of Rs.10,000/-. Consequently, connected miscellaneous petitions are closed.

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Speaking Order : Yes/No

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