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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25691 of 2004

1.Nand Lal Garg

2.Suresh Chand Gupta

... Petitioners

Vs.

1.The Assistant Commissioner,
(Urban Land Tax) Madhavaram,
No.248, Poonamallee High Road,
Aminjikarai,
Chennai - 600 029.

2.The Secretary to Government,
Revenue Department,
Secretariat,
Fort St.George,
Chennai - 600 009.

3.The Tahsildar,
Ambattur Taluk,
Ambattur,
Chennai.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Declaration declaring that the entire proceedings of the respondents under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 in R.C.No.4026/91/D in relation to the petitioners lands situated at Survey No.75 in Sadayankupam Village, previously Saidapet Taluk, presently Ambattur Taluk, Thiruvallur District, measuring of an extent of 70 cents, as unconstitutional and illegal.

For Petitioners : Mr.G.Ilangovan

For Respondents : Mr.R.P.Murugan Raja
Government Advocate



O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Declaration declaring that the entire proceedings of the respondents under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 in R.C.No.4026/91/D in relation to the petitioners lands situated at Survey No.75 in Sadayankupam Village, previously Saidapet Taluk, presently Ambattur Taluk, Thiruvallur District, measuring of an extent of 70 cents, as unconstitutional and illegal.

2.The case of the petitioners is that the petitioners are the owners of the subject land and they purchased the same from Nagammal, Ellammal and Jayalakshmi/ daughters of one Gangadhara Mudaliar on 24.06.1988 by way of indenture of sale registered as document no.3193 of 1988, SRO Thiruvotriyur and they are in possession of the same from the date of purchase. Whiles, when the poser agent of the petitioners approached the third respondent for payment of kist for the subject lands during December, 2003, the payment was not accepted by the third respondent saying that the lands were acquired by the respondents. On enquiry, the petitioners came to know that the respondents 1 and 2 have initiated some proceedings in respect of the subject lands as against one Munusamy Naicker who has no right, title, interest over the property. Hence, this writ petition.

3.The learned counsel appearing for the petitioners submitted that the petitioners purchased the subject lands from the legal heirs of one Gangadhara Mudaliar on 24.06.1988 by way of indenture of sale registered as document no.3193 of 1988, SRO, Thiruvotriyur. However, the respondents initiated proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act as against one Munusamy Naicker who has no right, title, interest over the property. The proceedings have been initiated as against a wrong person and the said Munusamy Naicker never participated or contested the proceedings and the entire proceedings concluded without hearing the original owner of the subject land. Till date the petitioners are in possession of the land and the revenue records were also mutated in their names.

4.Though the case is of the year 2004, till date the respondent has not filed any counter. Hence the learned counsel appearing for the petitioners is unable to argue the case in letter and spirit. However, the learned counsel further submitted that as per Section 11 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act as soon as after the service of the final Acquisition statement under section 10 on the person concerned, the vacant land in competent authority shall cause a



notification giving the excess of ceiling limit particulars of the vacant land held by such person in excess of the ceiling limit and stating that - such vacant land is to be acquired by the State Government; and the claims of all persons interested in such vacant land may be made by them personally or by their agents giving particulars of the nature of their interests in such land, to be published for the information of the general public in the Tamil Nadu Government Gazette, and in such other manner as may be prescribed.

5.The learned counsel appearing for the petitioners further submitted that after considering the claims of the persons interested in the vacant land, made to the competent Authority in pursuance of the notification published under sub-section (1), the competent authority shall determine the nature and extent of such claims and pass such orders as it deems fit. At any time after the publication of the notification under sub-section (1) the competent Authority may, by notification in the Tamil Nadu Government Gazette, declare that the excess vacant land referred to in the notification published under sub-section (1) shall, with effect from such date as may be specified in the declaration, be deemed to have been acquired by the State Government and upon the publication of such declaration, such land shall be deemed to have vested absolutely in the State Government free from all encumbrances with effect from the date so specified.

6.The learned counsel appearing for the petitioners further submitted that where any vacant land is vested in the State Government under sub-section (3), the competent authority may, by notice in writing, order any person who may be in possession of it to surrender or deliver possession thereof to the State Government or to any person duly authorised by the State Government in this behalf within thirty days of the service of the notice. If any person refuses or fails to comply with an order made under sub-section (5), the competent authority may take possession of the vacant land or cause it to be given to the State Government or to any person duly authorised by the State Government in this behalf and may for that purpose use such force as may be necessary.

7.The learned counsel appearing for the petitioners further submitted that service of notice has been explained in the Urban Land (Ceiling and Regulation) Rules, 1978 and as per Rule 8 of the said Rules, every draft statement prepared under sub-section (1) of section 9 shall contain the particulars specified in Form III and the draft statement together with the notice referred to in sub-section (4) of section 9 shall be served on the holder of the vacant lands and all other persons, so far may be known, who have, or are likely to have any claim to or interest in, the



ownership, or possession, or both, of the vacant lands by sending the same by registered post addressed to the person concerned - in the case of the holder of the vacant lands, to his address as given in the statement filed in pursuance to sub-section (1) of section 7 and in the case of other persons at their last known addresses.

8.The learned counsel appearing for the petitioners further submitted that when the draft statement and the notice are returned as refused, by the addressee, the same shall be deemed to have been duly served on such person. When the efforts to serve the draft statement are not successful, then the draft statement and the notice shall be served by affixing copies of the same in a conspicuous place in the office of the competent authority and also upon some conspicuous part of the house, in which the holder of the vacant lands or the other person is known to have last resided or carried on business or personally worked for gain.

9.The learned counsel appearing for the petitioners further submitted that in the present case, the procedures contemplated under Section 11 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act and Rule 8 of the Urban Land (Ceiling and Regulation) Rules, 1978, has not been followed. The learned counsel further submitted that though the petitioners names appear in the revenue records, the respondents have not taken any steps to serve notice on the petitioners which is gross violation of the principles of natural justice.

10.The learned Government Advocate appearing for the respondents submitted that though the respondents did not serve notice on the petitioners, they served notice to one Munusamy Naicker, however, he did not give the particulars or address of the petitioners and hence, the respondents are unable to serve notice to the petitioners.

11.Heard the arguments advanced on either side and perused the materials available on record. Though the case is of the year 2004, till date the respondent has not filed any counter. Hence, this Court on 16.03.2022 directed the first respondent to file counter and to produce relevant records or to appear before this Court along with relevant records on the next hearing date i.e., 29.03.2022. Pursuant to the said order, the first respondent appeared before this Court today (29.03.2022) along with the relevant records.

12.Perusal of the records reveal that originally, the subject lands belonged to one Thirunavukarasu and he sold the same to one Duraisamy Pillai vide sale deed dated 02.06.1948. Subsequently, the said Duraisamy Pillai sold the subject lands



to one Gangadhara Mudaliar vide sale deed dated 30.08.1969 and thereafter the petitioners purchased the subject lands from the legal heirs of the said Gangadhara Mudaliar on 24.06.1988 by way of indenture of sale registered as document no.3193 of 1988, SRO, Thiruvotriyur.

13.The opening page of the revenue records reveal that the revenue records are mutated in the names of the petitioners. However, the respondents have not taken any steps to secure the address of the petitioners and to serve notice on the petitioners. The entire proceedings have been initiated against one Munusamy Naicker who has no right, title, interest over the property.

14.Despite the petitioners names appeared in the revenue records, the respondents have not taken any steps to secure the address of the petitioners and to serve notice on the petitioners, however, initiated the entire proceedings against one Munusamy Naicker, who has nothing to do with the subject lands, which is un-sustainable one.

15.Hence, the entire proceedings of the respondents under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, in R.C.No.4026/91/D, is hereby declared as null and void.

16.The writ petition is accordingly allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner,
(Urban Land Tax) Madhavaram,
No.248, Poonamallee High Road,
Aminjikarai,
Chennai - 600 029.

2.The Secretary to Government,
Revenue Department,
Secretariat,
Fort St.George,
Chennai - 600 009.



3.The Tahsildar,
Ambattur Taluk,
Ambattur,
Chennai.

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+1cc to Mr.G.Ilangovan, Advocate, S.R.No.21576
+1cc to the Government Pleader, S.R.No.21344

W.P.No.25691 of 2004

RSI (CO)
SB (20/04/2022)