IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31-08-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.11514 of 2023
And
WMP No.11407 of 2023

1.S.Sadasivam
2.G.Pathini Pillai ... Petitioners

Vs.

1.The State,
Represented by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner,
Urban Land Ceiling and
Urban Land Tax,
Ezhilagam,
Chennai-600 005.

3.The Assistant Commissioner,
Urban Land Tax,
Alandur,
Chennai-600 016. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the proceedings of the third respondent vide his proceedings in Na.Ka.No.B/ 1539/2022 and quash the impugned order dated 16.02.2023 as illegal and for a direction directing the respondents herein to regularise the sale of the property – the land measuring an extent of 1240 square feet together with the house built to an extent of 1110 square fee at Door No.3/493 in Plot No.9A, Saraswathy Nagar, Neelankarai, Chennai-600 115, comprised in Survey No.33/1A1A and 2, situated at Neelankarai Village, Sholinganallur Taluk, Kanchipuram District, vide Document No.4912 of 2006, registered at the Office of the Sub Registrar, Neelankarai, Chennai and the subsequent sale vide Document No.3456 of 2012 dated 06.06.2012, registered at the Sub Registrar Office, Neelankarai, Chennai.

For Petitioners : Ms.Karthikaa Ashok

For Respondents : Mr.G.Krishna Raja,
Additional Government Pleader.

O R D E R

The rejection of the application submitted by the writ petitioner in proceedings dated 16.02.2023, is under challenge in the present writ petition.

2. The petitioner states that the second petitioner had purchased the property, the land measuring an extent of 1240 sq.ft., together with the house built to an extent of 1110 sq.ft., at Door No.3/493 in Plot No.9A, Saraswathy Nagar, Neelankarai, Chennai-600 115, comprised in Survey No.33/1A1A and 2 situated at Neelankarai Village, Sholinganallur Taluk, Kanchipuram District now Chennai District.

3. The land belonged to the Government admittedly. The land was taken by the Government under the Urban Land Ceiling Act. The proceedings of the Tahsildar, Sholinganallur dated 28.09.2022 reveals that the subject land has been taken under the Tamil Nadu Urban Land Ceiling Act, 1978. However, the vendor to the petitioners purchased the land in the year 2006. Subsequently the first petitioner purchased the land in the year 2012 from the second petitioner. Since the land vested with the Government, pursuant to the Urban Land Ceiling Act, 1978, the petitioners have submitted their application under the Innocent Purchaser Scheme issued by the Government in G.O.Ms.No.565, Revenue Department, dated

26.09.2008, to regularise the purchase made by the first petitioner from the second petitioner.

4. The learned counsel for the petitioners mainly contended that the petitioners are Innocent Purchasers and therefore, both the petitioners are eligible to submit application under the Innocent Purchaser Scheme.

5. In the present case, the second petitioner, who is the vendor to the first petitioner, also agreed to submit an application jointly under the Innocent Purchaser Scheme and there is no impediment for the Authorities to consider the case of the writ petitioners. However, the application submitted by the first petitioner was rejected without taking note of the fact that the petitioners were Innocent Purchasers.

6. The learned counsel for the petitioners relied on the clarification passed in G.O.Ms.No.34, Revenue and Disaster Management Department, dated 04.02.2019 and as per the Clarification No.3, the petitioners are eligible to avail the benefits of the Innocent Purchaser

Scheme.

7. The learned Additional Government Pleader, appearing on behalf of the respondents, objected the contentions raised on behalf of the petitioners by stating that admittedly the first petitioner purchased the property from the second petitioner. Thus the second petitioner lost her right of property. Therefore, the second petitioner became ineligible to submit an application under the Innocent Purchaser Scheme.

8. As far as the first petitioner is concerned, admittedly, he has purchased the land from the second petitioner in the year 2012. The Innocent Purchaser Scheme was made applicable only in respect of the purchases made between the 03.08.1976 and 26.09.2008.

9. That being the factum, both the petitioners became ineligible for submitting an application under the Innocent Purchaser Scheme with reference to G.O.Ms.No.565, Revenue Department, dated 26.09.2008.

10. This Court is of the considered opinion that the Tamil Nadu Urban Land Ceiling Act, was implemented and excess lands were declared as Government land during the relevant point of time, certain portions were distributed for the benefit of the poor landless people and certain lands were retained by the Government for public purposes. In lieu of the Land Ceiling Act, due compensation was settled in favour of the erstwhile of the owners.

11. Therefore, any subsequent alienation by any other person becomes invalid. Since several representations were submitted before the Government stating that the interest of the Innocent Purchasers are to be protected, the Government issued G.O.Ms.No.565, Revenue Department, dated 26.09.2008.

12. The Innocent Purchaser Scheme itself cannot be construed as inconsonance with the provisions of the Act. Once the Act was enacted and the lands were declared as vested with the Government and thereafter. issuing a Scheme is a concession. However, the Government thought fit to give relief to the persons, who have purchased smaller extent of land and

accordingly issued G.O.Ms.No.565, Revenue Department, dated 26.09.2008, by introducing the "Innocent Purchaser Scheme". Thus the scope of the Innocent Purchaser Scheme, cannot be expanded for the purpose of regularising the illegality committed by any person nor the Scheme being expanded.

13. In the present case, the Clarification No.3 issued by the Government in G.O.Ms.No.34, reads as under:-

Sl.No.	***Clarification sought for***	***Clarification issued***
1.	Even after lapse of 10 years from the date of issue of G.O.Ms.No.565, Revenue Department, dated 26.09.2008 applications are still received for regularisation from the Innocent Buyers who made purchase between 03.08.1976 and 26.09.2008.	As per G.O.Ms.No.565, Revenue Department, dated 26.09.2008, no crucial date is fixed by the Government for applying under Innocent Buyer Category for those who made purchase between 03.08.1976 and 26.09.2008. Hence, the applications received as on date shall be considered.

14. The abovesaid clarification reveals that applications are received for regularisation from the Innocent Buyers, who made purchase between 03.08.1976 and 26.09.2008. Admittedly, the first petitioner purchased the subject property in the year 2012. Though the second petitioner purchased the property in the year 2006 and falling within the cut off date, the second respondent had already transferred the property in favour fo the first petitioner. Therefore, the second petitioner became ineligible to submit an application under the Innocent Purchaser Scheme.

15. This being the factum, this Court do not find any infirmity in respect of the order impugned passed by the third respondent dated 16.02.2023.

16. Accordingly, the present writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

31-08-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn

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S.M.SUBRAMANIAM, J.

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