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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12732 of 2023

J.Kandavel ... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary/Commissioner,
Urban Land Ceiling & Urban Land Tax,
Chepauk, Chennai – 600 005.

2.The Additional Commissioner,
Land Reforms/Urban Land Ceiling & Urban Land Tax,
Chepauk, Chennai – 600 005.

3.The Assistant Commissioner,
Urban Land Ceiling and Urban Land Tax, Tambaram,
No.153. Karunikar Street,
Adampakkam, Chennai – 600 088. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the second respondent in Na.Ka.No.E2/118/2022 dated 19.01.2023 and to quash the same and consequently, direct the respondents to regularise the Plot bearing No.2, 8th street, Iyyappa Nagar, Sembakkam, Tambaram, Chennai 600 073, Comprised in Survey No.114/3

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and covered by Sale Deed vide Doc.No.5473/1982 and Release Deed in favour of the petitioner under Doc.No.2527/2012 under the category of innocent purchaser as per G.O.Ms.No.63, Revenue Department dated 27.01.2020 and G.O.Ms.No.565 dated 26.09.2008.

For Petitioner : Mr.M.Silambarasan

For Respondents : Mr.T.Arun Kumar
Additional Government Pleader

ORDER

The order of rejection dated 19.01.2023 passed by the second respondent is sought to be quashed in the present writ petition and further direction sought for is to regularise the plot bearing No.2, 8th street, Iyyappa Nagar, Sembakkam, Tambaram, Chennai 600 073, comprised in Survey No.114/3 and covered by Sale Deed vide Doc.No.5473/1982 and Release Deed in favour of the petitioner under Doc.No.2527/2012 under the category of innocent purchaser as per G.O.Ms.No.63, Revenue Department dated 27.01.2020 and G.O.Ms.No.565 dated 26.09.2008.

2. The father of the writ petitioner Mr.E.Jayagopal purchased a property all that piece and parcel of vacant land bearing Plot No.2, measuring

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an extent of 1 ground 1525 sq.ft, comprised in survey No.114 Part, as per patta Re-survey No.114/3, situated at No.161, Shembakkam Village, Tambaram Taluk, Chengalpet District. The father of the writ petitioner died intestate on 22.05.1995 leaving behind his wife/V.Ambiga, his daughter / Sreedevi and his son / the petitioner herein, as his legal heirs. The legal heirs of late Jayagopal submitted an application for grant of joint patta, which was granted by the Tahsildar in proceedings dated 31.01.1996.

3. The mother of the petitioner, V.Ambiga and his sister, Sreedevi released, relinquished and surrendered their respective 2/3rd shares in the above property and accordingly, executed a release deed in favour of the writ petitioner. The said release deed has been registered as document No.2527 of 2012 on the file of Sub Registrar, Selaiyur. The petitioner is in absolute possession and enjoyment of the subject property.

4. The petitioner approached the Urban Land Ceiling and Urban Land Tax Office for regularisation of the subject property. The petitioner submitted the copy of the release deed executed in his favour by his mother and his sister. The authorities competent rejected the claim of the writ petitioner on the

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ground that the time limit prescribed for extending the benefit of the Innocent Purchasers Scheme lapsed and therefore, the case of the petitioner cannot be considered.

5. Though the petitioner had submitted a copy of the release deed seeking regularisation, the purchase made by the father of the writ petitioner through a sale deed of the year 1982 is falling within the ambit of the Government Order issued in G.O.Ms.No.63, Revenue and Disaster Management Department dated 27.01.2020.

6. In this context, the counter filed by the Assistant Commissioner, Urban Land Tax, Tambaram states that the contention of the petitioner is true. If the father of the petitioner who had purchased the land during the year 1982 had applied for regularisation of the land under the innocent purchasers category, it would have been considered and orders passed accordingly, since the purchase made by him in the year 1982 is well within the ambit of the Government Order. However, the release deed effected by the mother and sister of the petitioner during the year 2012 would not be taken for consideration, since the transaction was executed beyond the cut off date i.e.,

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26.09.2008.

7. The respondent has admitted the facts placed by the petitioner before this Court. There was no dispute regarding the purchase of the subject property by the father of the writ petitioner in the year 1982. The Assistant Commissioner, further admits the fact that the sale deed of the year 1982 executed in favour of the writ petitioner is eligible for availing the benefit of the innocent purchasers scheme under the Government Order issued in G.O.Ms.No.63 dated 27.01.2020.

8. As far as the release deed is concerned, it is between the petitioner and the other legal heirs of the original purchaser who is none other than the father of the writ petitioner. The said release deed cannot be a ground to reject the claim of regularisation in favour of the writ petitioner, based on the Government Order issued in G.O.Ms.No.63 dated 27.01.2020. The release deed is only a family arrangement and more so, waiving the right of the legal heirs between themselves.

9. That being the factum, the case of the writ petitioner is to be considered for regularisation, based on the sale deed executed in favour of the

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deceased father of the writ petitioner in the year 1982.

10. In view of the facts and circumstances of the case, the impugned order passed by the second respondent in proceedings Na.Ka.No.E2/118/2022 dated 19.01.2023 is quashed.

11. The petitioner is at liberty to submit the sale deed of the year 1982 stands in favour of his deceased father. Based on the said document, the respondents shall grant regularisation of the subject property in accordance with the Government Order issued in G.O.Ms.No.63, Revenue Department dated 27.01.2020 and G.O.Ms.No.565 dated 26.09.2008. The said exercise is directed to completed within a period of six (6) weeks from the date of receipt of a copy of this Order.

12. Accordingly, the writ petition stands allowed. No costs.

28.08.2023

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Index : Yes
Speaking order
Neutral Citation : Yes

To

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S.M.SUBRAMANIAM, J.

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https://www.mhc.tn.gov.in/judis