IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.1314 of 2024
and
W.M.P.No.1355 of 2024

G.Naffes .. Petitioner

Vs.

1. The Principal Commissioner
   of Urban Ceiling and Urban Land Tax,
   Chepauk,
   Chennai-600 005.

2. The District Collector,
   Chennai District,
   Chennai-600 001.

3. The Assistant Commissioner
   of Urban Ceiling and Urban Land Tax,
   No.5, 1st Floor, Sannathi Street,
   Poonamallee,
   Chennai-600 056.

4. The Tahsildar,
   Madhawaram Taluk,
   Gandhi Main Road,
   Balaji Nagar, Puzhal,
   Chennai-600 066. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in R.C.No.2721/1989, dated 08.03.1991 and quash the same and direct the first respondent to consider the representation dated 21.11.2023, thereby to regularize the housing site to an extent of 787 Sq.Ft. situated at No.8, Sivaji Nagar, Survey No.102/6, Patta No.262, Puthagaram, Puzhal Panchayat Union No.57, Ambattur, Thiruvallur District, consequently, direct the fourth respondent to issue Patta in favour of the petitioner.

For petitioner : Mr.R.Karthik for M/s.R.K.Law Firm
For respondents: Mr.T.Arun Kumar, Addl.G.P.

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings in R.C.No.2721/1989, dated 08.03.1991 and quash the same and direct the first respondent to consider the representation dated 21.11.2023, thereby to regularize the housing site of an extent of 787 Sq.Ft. situated in No.8, Sivaji Nagar, Survey No.102/6, Patta No.262, Puthagaram, Puzhal Panchayat Union No.57, Ambattur, Thiruvallur District, and consequently, direct the fourth respondent/Tahsildar to issue Patta in favour of the petitioner.

2. Heard both sides and perused the materials available on record, including the counter affidavit filed by the respondents.

3. The land in question was acquired under the Tamil Nadu Urban Land (Ceiling and Regulation) Act and since the original owner did not submit the statement as per the said Act, proceedings were initiated and notice was issued under Section 7(2) of the said Act to the original owner and thereafter, proceedings were initiated and even notice under Section 9(4) of the said Act was also issued to the original owner and since the original owner did not participate, the land was declared as "surplus land", and when once it was declared as "surplus land", it vests with the Government, which becomes the owner of the property under question under Section 11(3) of the said Act. Thereafter, as far as the possession is concerned, if notice is issued under Section 11(5) to the land owner who is in possession of the property even after receiving notice under Section 11(5) and if the land owner failed to surrender the possession after receiving the notice under Section 11(5) of the said Act, then the Government has to issue notice under Section 11(6) for taking forcible possession and they can take the possession and 'Pancha Nama' has to be recorded.

4. Further, the materials available on record reveal that the possession has been taken, as it is a vacant land and possession follows title and the Government is the owner of the land. In the meanwhile, the Repealing Act of the said Tamil Nadu Urban Land (Ceiling and Regulation) Act, came into force, and any proceedings which have not been concluded on the date of Repealing Act coming into force, those proceedings under the Old Act will stand lapsed and subsequently no action can be taken by the Commissioner of Land Administration.

5. In this case, all the proceedings have been completed even prior to the Repealing Act came into force and therefore, the land vested with the Government and even notice under Section 11(5) of the Act was issued and thereafter, under Section 11(6) of the Act, they have taken possession and subsequently, the Revenue Records have been mutated to show the lands as 'Government Land'. The petitioner neither is the original owner of the land, nor was in possession on the date of the Repealing Act came into force. Even subsequently, the Government has also given the benefit of the Scheme in this case, in 2008, to persons who are all in possession and subsequently, the new Urban Land Ceiling Act came into force, and in case they have purchased the

property, even under void document, they could make use of it after paying the value of the land in question, and therefore, title is being recognised by receiving the land cost. The petitioner himself is a subsequent purchaser only after the Government Order, vide G.O.No.565, Revenue Department, dated 26.09.2008 and therefore, the petitioner is neither the land owner under the Old Act, nor he is in possession of the land under the Repealing Act, nor he is a bona-fide purchaser under the said G.O.

6. Therefore, the petitioner is not entitled for the relief sought for in the Writ Petition. Hence, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, W.M.P. is closed.

21.02.2024

Index: Yes/no
Speaking Order: Yes/no
Neutral Case citation: Yes/no
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P. VELMURUGAN, J

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