IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.28032 of 2024

Mr.C.Sivamoorthy … Petitioner

Vs

1.The State of Tamil Nadu,
Rep.by its Secretary to Government,
Revenue and Disaster Management Department ULC,
1(2)Wing Secretariat, Fort St.George,
Chennai-600 009.

2.The Special Commissioner,
Commissionerate for Urban Land Ceiling & Urban Lad Tax,
Chepauk, Chennai-600 009.

3.Assistant Commissionerate of Urban Land
Ceiling and Urban Land Tax,
Alandur, Kanchipuram District,
Tambaram-600 045.

4.The Tahsildar,
Tambaram Taluk,
Tambaram.

5.The District Revenue Officer,
Office of the District Collector,
Chengalpattu.

6.Executive Officer,
Perungalathur Town Panchayat,
Kancheepuram District-600 063. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorarified Mandamus, calling for the records pertaining to order Na.Ka.No.65/2023 Application Order dated 07.03.2024 issued by the 3rd respondent and quash the same consequently and direct him to grant patta in the name of the petitioner for the property situated at Kanchipuram District, Tambaram Circle, South Chennai District, Padapai Sub-Registration District, Perungalathur Town Panchayat limits, Perungalathur Village comprised in Survey No.190/4 of 1200 Sq.ft.

For Petitioner : Mr.P.Paul Britto Kumar

For Respondents 1 to 5 : Mr.A.Selvendran
Special Government Pleader

For 6th Respondent : Mrs.C.Meera Arumugam
Additional Government Pleader

ORDER

This Writ Petition is filed for a Certiorarified Mandamus, to call for the records pertaining to order Na.Ka.No.65/2023 Application Order dated 07.03.2024 issued by the 3rd respondent and quash the same consequently and direct him to grant patta in the name of the petitioner for the property situated at Kanchipuram District, Tambaram Circle, South Chennai District, Padapai Sub-Registration District, Perungalathur Town Panchayat limits, Perungalathur Village comprised in Survey No.190/4 of 1200 Sq.ft.

2. It is the case of the petitioner that a vacant site measuring 2400 sq.ft., alongwith a hut comprised in Survey Nos.190/1, 190/3, 190/4 and 190/5 at perungalathur Village, Kanchipuram was sold by one Sriraman in favour of one Gandhimathi for Rs.30,500/- in the year 1987. The said Gandhimathi sold the property to one C.Selvaraj,

C.Sivamoorthy and C.Kannan for Rs.3,00,000/- under the sale deed dated 17.05.1999. The lands comprised in Survey No.190/4, Patta No.3574, New Survey No.190/4B, Plot No.30A measuring an extent of 1200 sq.ft., was purchased by the petitioner from C.Selvaraj and C.Kannan. He has been in possession and enjoyment of the same for more than 14 years. The petitioner's site has also been approved by the Executive Officer of Perungalathur Town Panchayat. The petitioner had also made necessary payments to the local panchayat. The petitioner would submit that since possession continued with his predecessor in title and thereafter with the petitioner. He has obtained approval for putting up construction and he is in possession which is evident from planning permission obtained by him. The Urban Land Ceiling proceedings automatically come to a close with the coming into force of the Repeal Act, 1999.

3. The petitioner would submit that in the meantime, he came to know about the G.O.Ms.No.565, Revenue Department, dated

26.09.2008, therefore, the petitioner had earlier filed a writ petition to regularise his purchase under the innocent purchaser category in W.P.No.20076 of 2023. This Court vide order dated 24.11.2023 has directed the respondents to consider the petitioner's application dated 20.02.2023 and pass appropriate orders. Pursuant to this order, the 3rd respondent had passed the impugned order. Challenging the same, the petitioner is before this Court.

4. Counter affidavit has also been filed by the respondents 1 to 5.

5. Heard the learned counsels on either side.

6. The issue involved in this writ petition revolves around the fact as to whether with the coming into force of the Repeal Act, the Urban Land Ceiling proceeding come to an end or whether the petitioner can seek the benefit of G.O.Ms.No.565, Revenue Department, dated 26.09.2008 or G.O.Ms.No.63, Revenue and Disaster management

[ULC.1(2)] Department dated 27.01.2020? Under G.O.Ms.No.565, Revenue Department, dated, 26.09.2008, it was made clear that the scheme has been provided to protect the purchasers who had purchased the property unaware of the Urban Land Ceiling proceedings. It was made clear that the persons who had acquired lands by settlement/gift were also entitled to the benefits, as also people who have obtain a right under a partition deed, release deed, exchange deed etc. Therefore, in respect of application prior to 26.09.2008, G.O.Ms.No.565, Revenue Department, would apply and where the application is made after 26.09.2008, G.O.Ms.No.63, Revenue Department, dated 27.01.2020 would apply. Under G.O.Ms.No.63, Revenue Department, dated 27.01.2020 the Government has held as follows:

> "Accordingly, the Government direct that all the transactions done through registered deed by the Innocent Buyer and not the original land owner where the land was acquired under the erstwhile Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, [Tamil

> Nadu Act No.24 of 1978] (i.e.,) through Settlement Deed, Partition Deed, Gift Deed, Release Deed, Exchange Deed, etc., can be considered for the regularization under the Innocent Purchasers scheme, subject to the criterion that a sale should have been effected before the land is settled in favour of any person for valuable consideration or gifted or released or partitioned or Settled or Exchanged to the present petitioner through a valid registered deed and petition received from the Innocent Purchasers be entertained after scrutiny and verification of the genuineness of the transaction."

7. Therefore, under G.O.Ms.No.63, dated 27.01.2020, the Government had added a criteria that before applying the innocent purchaser scheme a sale should have been effected for valuable consideration before the land is subjected to a gift, partition or settlement or exchange through a valid registered deed. Such persons would also come within the ambit of G.O.Ms.No.63, Revenue Department dated 27.01.2020.

8. Considering the fact that the sale in favour of the petitioner is of the year 1999, therefore, G.O.Ms.No.565, Revenue Department, dated 26.09.2008 will apply and therefore, the petitioner's request for grant of patta has to be allowed taking into consideration the coming into force of the Repeal Act and possession being with the petitioner. Therefore, this writ petition is allowed and the respondents shall consider the request of the petitioner and grant patta to the petitioner. The said exercise shall be completed within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

06.12.2024

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation Case: Yes/No
ssn

To

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P.T.ASHA, J.,

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