IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.03.2024

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.32983 of 2019

P.Srinivasan ... Petitioner

Versus

1. The Commissioner,
   Urban Land Ceiling and Urban Land Tax,
   Chepauk – 600 005.

2. The Assistant Commissioner,
   Urban Land Ceiling and Urban Land Tax,
   Kundrathur (E) 153, Karuneegar Street,
   Adambakkam, Chennai – 600 088. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the first respondent in proceedings in Na.Ka.No.1409/2016/E2 and quash his order dated 06.04.2016 and direct the respondents to consider the petitioner's applications dated 06.01.2016 for regularisation of the petitioner's plots No.72 & 73, Arunachalam Main Raod, Ambal Nagar, in 98 Porur Village, Ambattur Taluk, Tiruvallur District comprised in Survey No.214 measuring 5.50 cents & 5.57 cents respectively under the scheme formulated in G.O.Ms.No.565 revenue department dated 29.06.2008 which have been now returned by the second respondent by his letter dated 12.12.2017.

For Petitioner : Mr.S.Balasubramanian

For Respondents : Mr.T.Arunkumar,
Additional Government Pleader

*****

ORDER

This writ petition has been filed seeking to quash the proceedings of the first respondent in Na.Ka.No.1409/2016/E2 dated 06.04.2016 and to direct the respondents to consider the petitioner's applications dated 06.01.2016 for regularisation of the petitioner's plots No.72 & 73, Arunachalam Main Raod, Ambal Nagar, in 98 Porur Village, Ambattur Taluk, Tiruvallur District comprised in Survey No.214 measuring 5.50 cents & 5.57 cents respectively under the Innocent Buyers Scheme.

2 According to learned counsel appearing for the petitioner, the petitioner's mother purchased two plots Nos.72 & 73, Arunachalama Main Road, Ambal Nagar, in 98 Porur Village, Ambattur taluk, Tiruvallur District comprised in Survey No.214 measuring 5.50 cents respectively. After her demise the petitioner and his brother and sisters entered into a partition and two plots were allotted to the petitioner in the partition. The petitioner after his retirement, made efforts to put up a construction and at that point of time, he came to know about the proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (in short 'the Act') and 3800 Sq.Mts in Survey No.214 has been declared as excess land, without giving any notice to the mother of the petitioner. Thereafter the petitioner made an application to the second respondent to regularize the two plots under the bonafide purchaser scheme, but the first respondent rejected the petitioner's claim stating that the petitioner has got the property by way of partition during the year 2010, against which present writ petition is filed.

3 Learned counsel for the petitioner would submit that the mother of the petitioner purchased the subject property by sale deeds dated 19.09.1985 by registered documents No.3096/1985 and No.3097/1985 and her mother died on 19.09.2006 leaving the petitioner, brother P.Ganesan and sisters Vasanthi Nagarajan, Chandra Madhavan and Vijayalakshmi Ramesh as her legal heirs. Thereafter partition deed dated 20.01.2010 entered into between the legal heirs and when the petitioner approached the second respondent for regularization of his plots, first respondent passed an order rejecting the petitioner's claim stating that the subject property was allotted to the petitioner pursuant to the partition deed dated 20.01.2010 and hence the petitioner is not eligible to get benefits under the innocent purchaser scheme.

3.1 Further no notice was served on the mother of the petitioner, who purchased the property on 19.09.1985 itself and from the date of purchase the plot is in the possession of the petitioner. The petitioner's mother purchased the land without any knowledge of acquisition proceedings. The learned counsel further contended that the first respondent failed to note that the two G.Os.649 and 565 have been issued only to protect the innocent purchasers who have purchased the lands covered under the Act without knowing the proceedings. Therefore even though the petitioner got property pursuant to the family partition taken place in the year 2010, but originally the mother of the petitioner purchased the property in the year 1985 itself and the respondents failed consider the same. Hence the petitioner is entitled to get benefits under bonafide purchase scheme.

4 Learned Additional Government Pleader for the respondents would submit that as per the revenue records one S.Thilagam owned an extent of 3800 sq.mts in S.No.214 and 255/1 Porur Village and since urban land owner failed to file returns under Section 7(1) of the Act, notice under Section 7(2) of the Act was issued on 31.01.1991 and served on one Ramasamy. On receipt of the same, the urban land owner did not file return and hence notice under Section 9(1) of the Act was issued on 31.07.1991. The land was inspected on 05.08.1992 and found that the land was urban in nature and orders under Section 9(5) of the Act was issued on 28.08.1992 declaring an extent of 3300 sq.mts as excess vacant land in S.no.214/1 & 255/1B of Porur Village after allowing 500 sq.mts towards family entitlement, which was also served on the daughter of the urban land owner. Final statement under Section 10(1) of the Act was issued on 24.05.1993, which was served by affixture on 25.06.1993. Thereafter notification under Section 11(1) of the Act was published in the Tamil Nadu Government Gazette dated 15.09.1993 and notification under Section 11(3) of the Act was published in the Tamil Nadu Gazette on 17.08.1994. Notice under Section 11(5) of the Act was issued on 21.09.1994 and served by affixture and the excess land was taken over and handed over to the revenue authorities on 28.06.1996. Notice under Section 12(7) of the Act was issued on 28.10.1996 and served on one P.R.Muralidharan on 25.11.1996 and orders under Section 12(6) of the Act was issued on 02.12.1996 and served on 05.12.1996. An amount of Rs.6,600/- payable under Section 12(6) of the Act was claimed and kept in revenue deposit, since the urban land owner refused to receive the amount.

4.1 The lands purchased on or before 26.09.2008 could only be regularised under Innocent Buyers Scheme as per the guidelines issued in G.O.Ms.No.565/ULC-1 Revenue dated 26.09.2008. The petitioner got the property through partition deed dated 20.01.2010. Therefore the petitioner was informed by the first respondent vide letter dated 06.04.2016 informing that as per the guidelines issued vide G.O.Ms.No.565 Revenue dated 26.09.2008, the petitioner's request cannot be considered.

4.2 The petitioner has acquired the title of the land only pursuant to the partition deed dated 20.01.2010 i.e. after 26.09.2008. The contention of the petitioner is that his mother purchased the property in the year 1985, whereas the petitioner got title only in the year 2010. Further as per Section 6 of the Act the sale made after 03.08.1976 is null and void. Therefore the petitioner is not eligible to get benefits under the innocent buyers category.

5 Heard the learned counsel on either side and perused the materials.

6 It is the main contention of the learned counsel for the petitioner that his mother purchased the property in the year 1985 and after her demise family partition taken place in the year 2010 and hence the petition is entitled to get benefits under the Innocent Buyers Scheme.

7 Even though as contended by the learned counsel for the writ petitioner that her mother purchased the property in the year 1985, it is to be noted that she died only in the year 2006 and from 1985 to till 2006 she never either challenged the acquisition proceedings or approached the Government to regularise her purchase. The petitioner, who got the property through family partition taken place in the year 2010 had approached the respondents to regularise his plots under Innocent Buyers Scheme. However, admittedly the petitioner got property only in the year 2010 i.e. after crucial date 26.09.2008.

8 Therefore the petitioner has not established that he is the bonafide purchaser without knowing the acquisition proceedings under the Act. Further the mother of the petitioner during her life time till 2006, has never challenged the acquisition proceedings.

9 In view of the above observations, the writ petitioner is not entitled to get benefits under the Scheme. Accordingly the writ petition shall stand dismissed. No costs.

12.03.2024

Index: Yes/No
cgi

To

1. The Commissioner,
   Urban Land Ceiling and Urban Land Tax,
   Chepauk – 600 005.

2. The Assistant Commissioner,
   Urban Land Ceiling and Urban Land Tax,
   Kundrathur (E) 153, Karuneegar Street,
   Adambakkam, Chennai – 600 088.

P.VELMURUGAN, J.,

cgi

W.P.No.32983 of 2019

12.03.2024