(2015) 02 MAD CK 0329

In the Madras High Court

Case No : Writ Petition No. 1810 of 2013 and M.P. No. 1 of 2013

S. Rangarajan APPELLANT

Vs

State of Tamil Nadu and Others RESPONDENT

Date of Decision : 24-02-2015

Acts Referred:

Citation : (2015) 02 MAD CK 0329

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Advocate : R. Thiagarajan, Senior Counsel for V.G. Suresh Kumar, for the Appellant; R. Vijayakumar, Addl. Govt. Pleader, Advocates for the Respondent

Final Decision : Allowed

Judgement

T.S. Sivagnanam, J.

1. Heard Mr. R. Thiagarajan, learned Senior Counsel assisted by Mr. V.G. Suresh Kumar, learned counsel for the petitioner and Mr. R. Vijaya Kumar, learned Additional Government Pleader for the respondents.

2. The petitioner has sought for writ of Mandamus to consider his case for regularisation of the purchase of the plot No. 5, Sri Ashtalakshmi Nagar, Coimbatore, comprised in Survey Nos. 92 Part, 93 Part and 94 of Kurichhi Village, Coimbatore Taluk and District, which has been purchased by him pursuant to a deed of conveyance dated 26.10.1984, duly registered as document No. 4574 of 1984 on the file of the office of the Joint Sub Registrar-I, Coimbatore, executed by the Ashok Nagar Sri Ashtalakshmi Co-operative House Building Society, by extending the benefit of G.O.Ms. No. 565 (Revenue) Department, dated 26.09.2008.

3. The writ petitioner would state that a total extent of 12 acres and 98 cents comprised in Survey Nos. 92, 93 and 94 of Kurichi Village was owned by the said co-operative society, having purchased the same from one Shakeena Bibi on 26.09.1984 registered as document No. 4206 of 1985. The said society formed a

housing lay out, which was approved by the local planning authority on 27.07.1984. The society had sold the plots to various purchasers and the petitioner has also purchased the land and deed of conveyance was executed in favour of the petitioner and registered. Since the land was conveyed by the cooperative society, there was an exemption from payment of stamp duty. The petitioner is stated to be in possession and enjoyment of the property ever since the date of purchase.

4. In December 2006, it came to the knowledge of the petitioner that the land comprised in Survey Nos. 92 and 93 forming part of approved lay out was shown as Government surplus lands, since it was found as excess lands at the hands of the vendors as per the provisions of the Tamil Nadu Urban Land Ceiling and Regulation Act, 1978. It is seen that the proceedings under the said Act, by issuing notice under Section 7(2) of the Act, itself commenced after the society purchased the property, as notice was issued only on 03.07.1990, whereas, the purchase by the society was made in the year 1984. Therefore, it is contended that the much prior to the initiation of the proceedings under the Tamil Nadu Urban Ceiling and Regulation Act, the society became the absolute owner of the property.

5. Several similarly placed persons, as that of the petitioner have challenged the proceedings initiated under the Tamil Nadu Urban Land Ceiling and Regulation Act and one such writ petition is W.P. No. 22743 of 2007. In the said writ petition, the proceedings initiated under the Tamil Nadu Urban Land Ceiling and Regulation Act was subject matter of challenge and contending that on account of Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, namely Act 20 of 1999, the entire proceedings stood abated and therefore, the petitioners therein are entitled to enjoy the properties in their own right. In the meantime, the Government issued Government Orders in G.O.Ms. No. 565, Revenue Department, dated 26.09.2008 extending the benefit of earlier Government Order in G.O.Ms. No. 649, Revenue Department, dated 29.07.21998. In the light of the said Government Orders, the writ petition filed earlier by the other plot owners in W.P. No. 22743 of 2007 was dismissed as withdrawn by the order dated 02.10.2009.

6. The petitioner would state that the Government has regularised the purchase effected by other plot owners under the innocent purchasers scheme taking note of the fact that the extent of property purchased by each of the purchaser is between 1 1/2 and 3 grounds and certain amounts were directed to be remitted. Now, the petitioner also seeks for a similar relief.

7. The learned Additional Government Pleader, by relying upon the counter-affidavit, submitted that as of now, the Government has put on hold the implementation of the said "innocent purchasers scheme". Further, it is stated in the counter-affidavit that the petitioner is not entitled to the said benefit on the ground that he purchased the land from the co-operative society, whereas, the Government Order contemplates relief only to the purchasers, who have

purchased the lands through sale deed under "Innocent Buyer category".

8. In my view, the distinction sought to be made is absolutely without any basis. The term conveyance deed has been used by the co-operative to sell the property to the petitioner to make a distinction from that of the sale deed. This expression is used to indicate that there is an complete exemption of stamp duty. Mere exemption of stamp duty by itself cannot differentiate the petitioner from being treated under "innocent buyer category". The Government Order contemplates relief to such of those persons, who have purchased small pieces of land being unaware of the fact that the lands were subject matter to Urban Land Ceiling proceedings. Therefore, the distinction sought to be drawn by the respondent is untenable and has to be rejected.

9. There is one more reason to reject the contention of the learned counsel for the respondent, since the Urban Land Ceiling proceedings were commenced in the instant case only in the year 1990. It is admitted in the counter-affidavit in paragraph 2 that the purchase of land by the society was made way back in 1984. Therefore, on the date when the proceedings was initiated, by issuing notice under the Urban Land Ceiling and Regulation Act, the erstwhile owner was not owner of the land and the Society owns the land. Therefore, there cannot be any distinction between the petitioners in the earlier writ petitions and the petitioner herein is also to be treated as innocent buyer.

10. The contention of the Government that the Innocent Buyers scheme was put on hold cannot be made applicable to the petitioner, if the other purchases of the same land are given the benefit. Therefore, there cannot be any distinction between the petitioner and other similarly placed persons.

11. Accordingly, this writ petition is allowed and the respondents are directed to extend the benefit of G.O.Ms. No. 565, Revenue Department, dated 26.09.2008 to the petitioner for the purpose of regularization after collection of necessary amount fixed by them. The above direction shall be complied with within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.