(2014) 03 MAD CK 0165

In the Madras High Court

Case No : Writ Appeal No. 1420 of 2013 and M.P. Appeal No. 1 of 2013

The Government of Tamil Nadu — APPELLANT

Vs

I. Richardson — RESPONDENT

Date of Decision : 25-03-2014

Acts Referred:

Citation : (2014) 3 LW 328 : (2014) WritLR 1129

Hon'ble Judges : N. Paul Vasantha Kumar, J;Meenakshi Sundaram Sathyanarayanan, J

Bench : Division Bench

Judgement

M. Sathyanarayanan, J.—The official respondents in W.P. No. 27406 of 2006 are the appellants. The respondent herein filed W.P. No. 27406 of 2006 praying for quashment of the order dated 9.5.1994, issued by the third appellant herein under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (hereinafter referred to as the ''Act'') and the consequential order passed by the first appellant dated 27.6.2006 insofar as the respondent/writ petitioner is concerned, in respect of the property bearing Door No. 25 T.S. No. 2 (part) at Survey No. 82, Block 15, Saidapet Village Mambalam Guindy Taluk, ad-measuring to an extent of 1800 sq. ft. and further direction to the fourth appellant to transfer patta in the name of the respondent/writ petitioner.

2. It is the case of the respondent/writ petitioner that he purchased the above said land together with the building thereon from one K. Rajavelkumar, by means of registered sale deed, dated 15.12.2000 (registered as Document No. 1136 of 2001). on the file of the Joint Sub Registrar, Saidapet and the said Rajavelkumar had purchased the said property by means of two registered sale deeds both dated 27.10.1986 (Document Nos. 1093 and 1094 of 1986) from Amirthammal, R. Sivanesan Arokiadas, R. Ramachandran and Balammal respectively.

3. It is the specific case of the respondent/writ petitioner that after the purchase of the property in question, he had applied before the fourth appellant for the transfer of patta in his name. His vendor Rajavelkumar already obtained proper

planning permission from the Chennai Metropolitan Development Authority and also obtained No Objection certificate from the fourth appellant herein and thereafter, put up a superstructure on the said property and it was also subjected to statutory levies by the concerned authorities and the patta was also granted in favour of the said person on 8.5.1992 and from him, he purchased the property as bona fide purchaser, by means of a registered sale deed dated 15.12.2000.

4. It is also the specific case of the respondent, writ petitioner that at the time of Repealing Act, the entire proceedings initiated against him, stand abated and no compensation was also paid and the vendor was also in possession of the property and therefore he was issued with a patta in his own name.

5. The appellants took a stand that after observing due formalities, the land in question was taken possession on 27.7.1995 and from that date onwards, it vests with the concerned authorities and even prior to the Repealing Act, the possession of the property has been taken and consequently, the relief sought for by the respondent/writ petitioner, cannot be granted.

6. The learned Judge, after taking note of the rival submissions and on perusal of the original records, found that even the notice contemplated under Section 11(5) of the Act, has been served only on the son of Amirthammal and further taking note of the fact that the vendor of the respondent/writ petitioner, viz., Rajvelkumar, had obtained proper planning permission from the CMDA and also put up a construction and it was mutated in his favour, found that the case projected by the writ petitioner, viz., Rajavelkumar, had obtained proper planning permission from the CMDA and also put up a construction and it was mutated in his favour, found that the case projected by the writ petitioner, merits acceptance and therefore, allowed the writ petition as prayed for, and hence the challenge is made by the official respondents by filing this writ appeal.

7. Mrs. A. Sri Jayanthi, learned Special Government Pleader appearing for the appellants/official respondents, produced the original file and has also drawn the attention of this Court to the documents available in the file and would submit that the official respondents after complying with the formalities contemplated under the above said Act, had taken possession of the property as early as on 27.7.1995, and therefore in the facts and circumstances of the case, the case of the respondent/writ petitioner merits no acceptance and hence prays for interference.

8. Per contra, Mr. V. Ramesh learned counsel appearing for the respondent/writ petitioner, has drawn the attention of this Court to the proceedings of the third appellant dated 13.9.1991 and would submit that the said order would also disclose that the existence of 11 dwelling units in respect of the land in question has also been taken note of and also would submit that in the letter dated 5.11.2004 sent by the Assistant Commissioner (ULT) to the Tahsildar, Mambalam-Guindy Taluk, it was stated that the patta sought for by the respondent/writ petitioner, cannot be granted for the reason that the land in question, has been

handed over to the Revenue Department on 27.7.1995 itself cannot stand the scrutiny both on facts and law.

9. This Court has also perused to the original file and it would disclose that the notice under Section 11(5) of the Act sent to Amirthammal, was returned with an endorsement ''deceased'' and it was served on the authorised agent, viz., Arokiadas, it is an undisputed fact that the Amirthammal died in the year 1992 and if really the authorised agent was given authorization by her, it is of no help for the reason after the demise of the principal, authorised agent has no right to deal with the property of the deceased and hence service of notice on authorised agent is of no consequence.

10. It is also pertinent to point out at this juncture, that Amirthammal and others had sold the property in favour of Rajvelkumar vide registered document dated 27.10.1986, and the said Rajvelkumar after purchase from Amirthammal and others, had obtained planning permission from CMDA and also put up superstructure and paid the statutory levies in his name and thereafter, he sold the property in favour of the respondent/writ petitioner by means of a registered sale deed dated 15.12.2000.

11. A perusal of the proceeding handing over possession, was available at page no. 295 on the file of the revenue authorities would disclose that the land in question has been taken possession from an official attached to the office of the Assistant Commissioner ULT, by the revenue Inspector, Mambalam Guindy Taluk and not from legal representatives of deceased Amirthammal.

12. This Court, on a perusal of the original records and upon consideration of all other materials, is of the view that the mandatory notice under section 11(5) of the Act, has not been served on Rajvelkumar, and the Tahsildar Mambalam-Guindy Taluk Chennai 78 has also issued a certificate dated 21.1.1993, stating that the vendor of the respondent/writ petitioner, viz., Rajvelkumar, is in possession of the property and he is residing in the premises bearing Door No. 3 R.R. Chetty Street, Saidapet Chennai 15 and the property in T.N. No. 2/6 Block No. 15 is a vacant site belonging to him and patta was also issued in C.A. No. 182/92 on 8.5.1992 and he was also given planning permission, the vendor of the writ petitioner also put up a construction and the statutory levies were also in his name and the respondent/writ petitioner had subsequently purchased the said land by means of a registered sale deed 15.12.2000. In the light of the above facts and circumstances, the learned single Judge has rightly found that the case projected by the respondent/writ petitioner merits acceptance and allowed the writ petition. This court on a perusal of the entire materials placed on record, is of the view that the reasons assigned by the learned single judge, are sustainable both in law and on facts and finds no infirmity and therefore, the writ appeal is dismissed. No costs. Since the impugned order passed in the writ petition, has been confirmed in this writ appeal, the fourth appellant is directed to take necessary steps for issuance of patta in favour of the respondent/writ petitioner subject to the fulfillment of requirements, as contemplated under law,

as expeditiously as possible. Consequently connected miscellaneous petition is closed.

