Sunil Kumar ... Vs. the State of Tamil Nadu Rep by the Secretary, and ors.

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SooperKanoon Citation : sooperkanoon.com/905724

Court : Chennai

Decided On : Jul-13-2010

Judge : D.Hariparanthaman, J.

Acts : Constitution Of India - Article 226

Appeal No. : W.P.No.12475 of 2010

Appellant : Sunil Kumar ...

Respondent : The State of Tamil Nadu Rep by the Secretary, and ors.

Advocate for Def. : Mr.N.Senthil Kumar, Adv.

Advocate for Pet/Ap. : Mr.V.R.Thangavelu, Adv.

Judgement :

1. In the year 1970, one Vijayaragam was assigned land at Alapakkam, Chengalpattu Taluk, Kancheepuram District. However, the assignment was cancelled in the year 1975. Without disclosing the cancellation of assignment, the said Vijayaragam sold the land to Nagalakshmi in the year 1983. The petitioner's father entered into an agreement of sale on 15.07.1995 with the said Nagalakshmi with relation to the aforesaid property. The petitioner's father was not aware about the cancellation of assignment, when he entered into an agreement with Nagalakshmi. When Nagalakshmi failed to execute the sale deed, the petitioner's father filed a suit in O.S.No.54 of 1997 before the Additional Sub-Judge, Chengalpattu for specific performance of the agreement of the sale deed dated

15.07.1995. The said suit was decreed on 31.07.1998.

2.The petitioner's father died on 05.07.1999 leaving behind the petitioner, his mother, his brothers and sister as legal heirs. The legal heirs of the petitioner's father filed Execution Petition in E.P.No.100 of 2001 for execution of the sale deed in pursuance to the sale agreement. The said Nagalakshmi failed to execute the sale deed even in the execution proceedings and resultantly, the Additional Subordinate Court, Chengalpattu executed the sale deed on 27.08.2002, registered as Document No.748 of 2002, with the Joint-I Sub-Registrar, Chengalpattu. The petitioner's family is in possession and enjoyment of the property. In these circumstances, the petitioner made a representation dated 22.06.2007 to the respondents 1 to 4 requesting to sell the said property, on collection on market value as provided under Clause 15(25) of the Revenue Standing Orders.

3.Since, no order was passed by the fourth respondent, the petitioner has filed the present writ petition praying for a direction to fourth respondent to consider his representation dated 22.06.2007, in the light of the Revenue Standing Order 15(25) and as indicated in the letter of the second respondent dated 10.09.2007 within a time frame.

4.Notice of motion was ordered on 16.06.2010.

5.Heard Mr.V.R.Thangavelu, learned counsel for the petitioner and Mr.N.Senthil Kumar, learned Additional Government Pleader for the respondents. The learned Additional Government Pleader has made his submissions based on instructions.

6.The learned counsel for the petitioner states that the petitioner is willing to pay market value. According to the petitioner, the fourth respondent is the competent authority to pass orders on his representation dated 22.06.2007 requesting for the private sale of the property. The learned counsel for the petitioner has brought to my notice Clause 15(25) of the Revenue Standing Orders and the same is extracted here-under:-

"(25)(1) Persons who are not eligible for assignment of lands free of cost under the foregoing rules, whether as a landless and poor person or as a political sufferer or Ex Servicemen, shall by sale in public auctions or by private sale on collection of market value, subject to the provision referred to above. The disposal of valuable lands to such persons shall be governed by the following special provisions besides the ordinary provisions contained in this Standing Order.

(2) Lands which are in the proximity of towns and which in due course of time are likely to become part of town extension schemes shall be treated as specially valuable and shall, except as provided above be sold in public auction. Other valuable lands shall be disposed of either by sale in public auction or by private sale on collection of market value, whichever course is advantageous to Government.

(3) The extent of valuable and that may be assigned in each case shall be limited to 6.05 acres if the land is wet or irrigable dry land, and 1.21.5 hectares if it is a dry land.

(4) Where a valuable land is assigned by sale in public auction or by private sale on collection of market value the special conditions above shall not apply; but the assignment shall be subject to the usual conditions and assessment shall be payable for the fasli in which the land was assigned."

7.It is stated that the second respondent wrote a letter dated 10.09.2007 informing the petitioner that the decision has to be taken by the fourth respondent on the representation dated 22.06.2007 of the petitioner. 8.In view of the nature of prayer, the fourth respondent is directed to pass orders on the representation dated 22.06.2007 of the petitioner in the light of the Revenue Standing Order 15(25) in relation to the private sale of the property referred to therein within a period of eight weeks from the date of receipt of a copy of this order.

9.With the above direction, the writ petition is disposed of. No costs.