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W.P.No.2698 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 01.11.2023

PRONOUNCED ON : 27.11.2023

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

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1. Rajagopal (deceased)
2. R.Indira
3. R.Ramachandiran
4. R.Bharathan ...Petitioners
(petitioners 2 to 4 brought on record as LR's of the deceased 1st petitioner as per order of this Court 10.03.2005 in W.M.P.No.2994/05)

Vs.

1. The Principal Commissioner & Commissioner of
Land Reforms, Chepauk, Chennai – 5.
2. The Competent Authority,
Urban Land Ceiling, Coimbatore. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the records of the first respondent dated 24.06.1998 vide Ref.No.J2/18217/1996 and quash the same.



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For Petitioner : Mr.A.Sivaji

For Respondents : Mr.S.Silambanan,
Additional Advocate General Assisted by
Mr.Yogesh Kannadasan,
Special Government Pleader

ORDER

The writ petitioner initially filed a Special Revision Petition in S.R.P.No.50 of 2000 before the Tamilnadu Land Reforms Special Appellate Tribunal, Santhome High Road, Chennai, seeking to quash the proceedings dated 24.06.1998 vide Ref.No.J2/18217/1996. After abolishment of the Tribunal, the petitioner has filed Civil Revision Petition before this Court and since Revision would not lie against the order impugned, the same has been converted into Writ Petition.

2 The brief facts of the case is that the writ petitioner owned lands in S.Nos.378 and 405 measuring to an extent of 25,617 sq.mts of Sowripalayam Village, Coimbatore. The second respondent, since the said land is covered under the ceiling limit of TamilNadu Urban Land (Ceiling



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and Regulation) Act, 24 of 78 (in short 'the Act'), initiated proceedings under the Act and after following the mandatory provisions of the Act, final statement under Section 10(1) of the Act was issued on the petitioner. On receipt of the same, the land owner filed an appeal under Section 33 of the Act before the first respondent stating that portion of land still maintained as agricultural land and the layouts were approved and hence the Act would not attract and also the petitioner and the subsequent purchasers are in possession of the land. The first respondent dismissed the appeal relying on the report of the Commissioner, Coimbatore Corporation which states that the layouts were technically approved by District Town and Country Planning for residential purpose, but subsequently there are unauthorised constructions and the Corporation had not approved the layouts. Against the order of the first respondent, the present writ petition has been filed.

3 Learned counsel appearing for the writ petitioner would submit that the petitioner applied for approval of his layouts on 29.01.1975 and the same has not been disallowed within 120 days and hence in view of Section 200 of the TamilNadu District Municipalities Act, 1920, the lands in



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question were deemed to be approved prior to 03.08.1976 i.e. when the Act came into force. The above facts have not been considered by the respondents, while passing the orders.

3.1 The petitioner and the subsequent purchasers are still in possession of the land and the second respondent did not send any notice on the interested parties viz. subsequent purchasers. The service of statutory notice and the orders were not served on the land owner and the subsequent purchasers in accordance with law. Therefore initiation of proceedings itself is illegal.

3.2 Further the learned counsel contended that even now the alleged surplus lands are under the physical possession and enjoyment of the petitioner and the subsequent purchasers. The property tax and the electricity bills will establish the factum of possession with the land owners. Nearly an extent of 2.75 acres were sold to various 3rd parties in which industrial sheds are there and nearly 2000 employees are working, which are having 2000 H.P.Power and 1,00,000 sq.ft of buildings. The 3rd party



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purchasers have got building plans approved and pucca buildings are in existence and the buildings are assessed to property tax also. An extent of 8.35 cents was donated for road purpose by a registered deed dt.22.03.1988. Therefore the area covered by approved building as well the appurtenant land will not come within the definition of urban land as defined under Section 3(q)(ii) of the Act.

3.3 The learned counsel appearing for the writ petitioner further submitted that when the Repeal Act 20 of 1999 came into existence, the entire proceedings of the second respondent got abated and hence the lands in question has to be given to the land owner and the subsequent purchasers taking note of the buildings and superstructures in the land. On the date when the Repeal Act came into force, the petitioner and the subsequent purchasers are in possession of the lands in question and hence proceedings under the Old Act got lapsed and therefore the order passed by the respondents are liable to be set aside.



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4 Mr.S.Silambanan, learned Additional Advocate General

appearing for the respondents contended that since the subject lands of the petitioner were attracted under the provisions of the TamilNadu Urban Land (Ceiling and Regulation) Act, the second respondent initiated proceedings under the Act. The main contention of the writ petitioner is that the layouts were approved even prior to the Act came into force and the hence the Act will not apply. Even though the layouts were approved technically by the District Town Panchayat and Country Planning, but, subsequently the Singanallur Municipal area has been included with the Corporation and hence the first respondent had addressed the Commissioner, Corporation of Coimbatore, for clarification regarding the approval of layouts in question. Reply has been received from the Corporation stating that even though the layouts were technically approved, Corporation has not approved the layouts.

4.1 The learned Additional Advocate General fairly conceded that the writ petitioner and subsequent purchasers are in possession of the subject lands and considering all theses facts, the second respondent issued



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notice dated 19.05.2000 calling for willingness to retain the respective lands by paying the amount fixed by the Government, since even though the Act was subsequently repealed, the lands which were already acquired under Section 11(3) of the Act by the Government can be allotted to the person desired by the Government. But, without challenging the same, the petitioner has filed the petition seeking to quash the proceedings initiated by the second respondent under the Act, which is not correct.

4.2 The learned Additional Advocate General finally submitted that now the Government is ready to allot the lands to the land owner and the subsequent purchasers provided they should pay the amount fixed by the Government for the respective lands.

5 Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents and perused the materials available on record.



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The prime contention raised by the writ petitioner is that the lands in question were already approved by the Directorate of Town and Country Planning as 24 layouts and hence the lands will not come under the provisions of the Act. Since the application of the writ petitioner for the approval of layouts has not been disallowed within 120 days, in view of Section 200 of the Tamilnadu District Municipalities Act, 1920, the lands in question were deemed to be approved and in that way the writ petitioner got approval for his layouts.

7 It is to be noted that subsequently the Singanallur Municipality, under which the subject lands comes, was merged with the Corporation of Coimbatore and when the Government rejected to approve the 24 layouts of the said Municipality, one of the promoters approached this Court by way of writ petition, wherein this Court held that the petitioner would be entitled to the benefits under Section 5(3) of the Act. But on an appeal, the Division Bench of this Court, considering the subsequent merger of the Municipality with the Coimbatore Corporation, directed the beneficiaries to file an



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application for sanction and instructed the local body to accord sanction in accordance with law. Thereafter when the Commissioner, Corporation of Coimbatore, was requested to verify the records and clarify with regard to the approval of the layouts, the Commissioner replied stating that even though the layouts were technically approved for residential purpose, there are many industrial and business firms and hence approval has not been given to such layouts. Therefore, the layouts were not approved by the Corporation of Coimbatore, who is the authority to approve the subject lands.

8 The other grievance of the writ petitioner is that the petitioner and the subsequent purchasers are still in possession of the land and the second respondent did not send any notice on the interested parties viz. subsequent purchasers. The service of statutory notice and the orders were not served on the land owner and the subsequent purchasers in accordance with law. Therefore initiation of proceedings itself is illegal. Even now the alleged surplus lands are under the physical possession and enjoyment of the petitioner and the subsequent purchasers and hence when the Repeal Act



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20 of 1999 came into existence, the entire proceedings of the second respondent got abated.

9 To answer the above contentions of the writ petitioner, it is stated by the learned Additional Advocate General that notice has been served by affixture and considering the possession of the petitioner and the subsequent purchasers, the second respondent issued notice dated 19.05.2000 called for willingness to retain the respective lands by paying the amount fixed by the Government, since even though the Act was subsequently repealed, the lands which were already acquired under Section 11(3) of the Act by the Government can be allotted to the person desired by the Government.

10 As contended by the learned Additional Advocate General, the writ petitioner has not challenged the above notice dated 19.05.2000 and the petitioner has filed the writ petition seeking to quash the very proceedings itself initiated by the second respondent under the Act and the order of the first respondent.



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11 This Court is in agreement with the contentions of the the learned Additional Advocate General that now the Government is ready to allot the lands to the land owner and the subsequent purchasers provided they should pay the amount fixed by the Government for the respective lands.

12 Therefore the petitioner is directed to respond the notice issued by the second respondent dated 19.05.2000 and the Government is at liberty to receive the amount as per scheme and allot the subject lands to the respective land owners in the manner known to law, if the petitioners are otherwise eligible for the same.

13 With the above directions, this writ petition is disposed of. No costs.

27.11.2023

Index: Yes/No

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To

1. The Principal Commissioner & Commissioner of
Land Reforms, Chepauk, Chennai – 5.

2. The Competent Authority,

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Urban Land Ceiling, Coimbatore.

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