

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.695 of 2015

and

M.P.No.1 of 2015

- 1.The Special Commissioner and
Commissioner of Land Reforms,
Ezhilagam,
Chennai-5.
- 2.The Assistant Commissioner,
(Competent Authority),
Urban Land Ceiling and
Urban Land Tax,
Alandur, Chennai. ... Appellants

Vs.

K.R.Khaleel Rahman ... Respondent

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 19.06.2012 passed in W.P.No.21939 of 2004.

This Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the order of Ceiling passed by the 2nd respondent in the proceedings in Na.Ka.No.2537/97A dated 19.12.1997 pertaining to the petitioner's lands in S.No.77/1 and S.No.74/3 semancheri Village, Tambaram Taluk, Kancheepuram District measuring 49 ½ cents in S.No.77/1 and 71 cents in S.No.74/3 and quash the same.

For Appellants : Mr.N.Sakthivel, GA

For Respondent : Mr.S.Udayakumar

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 19.06.2012 made in W.P.No.21939 of 2004.

2. The writ petitioner / respondent herein, challenging the legality and validity of the order dated 19.12.1997 in respect of the lands in Survey Nos.77/1 and 74/3 in Semancheri Village, Tambaram Taluk, Kancheepuam District, owned by him, has come up with the writ petition, stating therein that he was in continuous possession and enjoyment of the land in dispute. It was also contended that an order was passed in exercise of power under Section 9 of the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978, without serving the requisite notice under Section 7(2) of the Act on the petitioner. The notice was served by way of affixation, not by way of service on the writ petitioner. The entire exercise of acquisition was sought to be declared as vitiated for want of compliance of principles of natural justice.

3. The learned Single Judge, after having examined all facts and documents placed before the Court, held as under :

"11.The writ petition is opposed by the respondent, on the ground that the possession has already been taken by the Tahsildar. This contention of the respondent cannot be accepted, as the petitioner has neither placed on record the final order determining the compensation, nor any document has been placed on record showing taking of physical possession, rather it is proved that proceedings were taken without notice to the petitioner."

4. The impugned order of the learned Single Judge was rendered on 19.6.2012, quashing the order of acquisition for want of compliance of principles of natural justice and violation of statutory provisions. The appellants-State has come up with the appeal belatedly by filing it on 23.04.2015.

5. Heard the learned counsel for the appellant and the learned counsel for the respondent and perused the pleadings and documents appended thereto.

6. The State-appellants have not produced any material before us, wherefrom it can be inferred that the finding of the learned Single Judge in respect of the violation of principles of natural justice, was contrary to the facts. The appellants have contended that all necessary steps required under the provisions of law, have been taken before the impugned order of acquisition was passed and also that necessary changes have been carried out in the village account. Except the self serving statement, as afore-stated, no material has been placed in support of the submission. Thus, we have no hesitation in holding that the view taken by the learned Single Judge is in accordance with law, warranting no interference.

7. In view of the foregoing, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

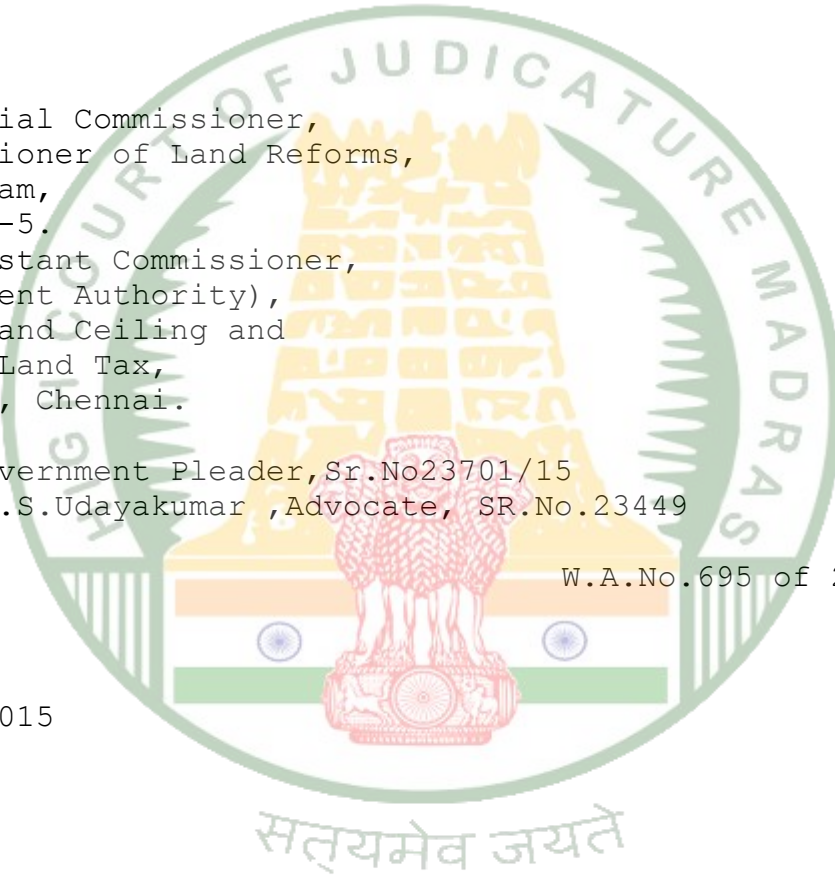
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1 cc to Government Pleader, Sr.No23701/15

1 cc to Mr.S.Udayakumar ,Advocate, SR.No.23449

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