

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.10.2015

CAV ON:03.11.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.11028 of 2009

and

M.P.Nos.1 of 2009 and 1 of 2010

- 1.G.Gopal
- 2.Saroja
- 3.Meenakshi
- 4.Kasi Reddiar
- 5.R.Damodharan
- 6.P.Krishnamurthy
- 7.K.Kannammal
- 8.M.Thenmozhi
- 9.K.Kandasamy Reddiar
- 10.Shanthi
- 11.Vijayabharathi
- 12.Kannan
- 13.Manjani Chettiar
- 14.Gurulinga Reddy
- 15.Chandrasekaran
- 16.M.Munusamy
- 17.S.Muniammal
- 18.Valliammal
- 19.Vijayalakshmi

(Petitioners 1 to 19 are rep. by their
General Power Agent, K.V.Thirupathiah
residing at No.W190, North Main Road,
Anna Nagar West Extension,
Chennai - 600 001.

...Petitioners

Vs.

1.The Special Commissioner and
Commissioner of Land Reforms,
Chepauk, Chennai - 600 005.

2.The Assistant Commissioner/U.L.T,
Competent Authority (Urban Land Ceiling),
Madhavaram Zone,
No.2, Vivek Nagar, Kolathur,
Chennai - 99.

3.The Tahsildar,
Ambattur,
Chennai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue writ of Certiorarified Mandamus to call for the records of the respondents, especially the order of the 2nd respondent dated 15/07/1992 in Na.Ka.No.2215/92/D under Section 9(5) and order dated 12.08.1998 in RC.No.2215/92/D under Section 11(5) respectively of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, relating to the land in Survey Nos.98/1A, 98/1I, 102/3, 102/4A, 107/1D, 109/3, 109/5A1A measuring an extent of 10250 Sq.mt of Kadirvedu Village, Ambattur Taluk, Tiruvallur District and quash the same and treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act, (Act 20 of 1999) so as to enable the 3rd Respondent to incorporate the names of the Petitioners and their successors in interest as owners in all the revenue records.

For Petitioner : Mr.V.Ramesh

For Respondents: Mr.P.Karthikeyan
(Government Advocate)

O R D E R

The petitioners are the owners of the land referred in Survey Nos.102/3, 102/4A, 102/2A1, 105/1A1, 102/2A3, 98/2A3, 98/2A1, 104/2A, 104/2B, 103/2, 102/4B, 102/2A2A, 103/1, 109/5A1B, 109/5A1B, 109/5C, 109/5A2, 109/5B, 107/1D, 109/5A1A, 107/1C and 107/1E. The details of ownership of each of the petitioner are tabulated below:

S. No	Name of the Seller	Power of Attorney Date and Doc.No	Survey No.	Extent in ares/hectares
1	G.Gopal	27/09/1999 1036/99	102/3 102/4A	0.16.0 0.04.0
2	Saroja	27/09/1999 1037/99	102/2A1	0.26.0
3	Meenakshi	02/11/1999 1187/1999	105/1A1	0.28.5
4	Kasi Reddiar	02/11/1999 1187/1999	105/1A1	0.28.5
5	R.Damodharan	27/09/1999 1034/99	102/2A3	0.31.0

S. No	Name of the Seller	Power of Attorney Date and Doc.No	Survey No.	Extent in ares/hectares
6	Krishnamurthy	04/10/1999 1076/99	98/2A1	0.20.5
7	K.Kannammal	15/11/1999 1222/99	104/2A	0.13.5
8.	M.Thenmozhi	29/12/1999 129/00	104/2B	0.13.0
9.	K.Kandasamy Reddiar	04/10/1999 1078/99	103/2	0.19.0
10	Shanthi .	27/09/1999 1040/99	102/4B	0.21.5
11	Vijayabharathi	27/09/1999 1040/99	102/4B	0.20.0
12	Kannan	29/09/1999 1057/99	102/2A2A	0.16.5
13	Manjani Chettiar	04/10/1999 1057/99	103/1	0.19.5
14	Gurulinga Reddy and Chandrasekaran	29/09/1999 1056/99	109/5A1B	0.08.0
15	M.Munusamy	27/09/1999 1039/99	109/5C	0.11.0
16	S.Muniammal .	27/09/1999 1038/99	109/5A2 109/5B	0.60.0 0.10.5
17	Valliammal	27/09/1999 1035/99	107/1D 109/5A1A	0.10.5 0.07.0
18	Vijayalakshmi .	04/11/1999 1203/99	107/1C 107/1E	0.11.5 0.12.0

2. The petitioners are in possession and enjoyment of the lands and their holdings are within the ceiling limit prescribed under the Tamil Nadu Urban Land Ceiling Act 24 of 1978. These petitioners appointed the deponent herein as their Power Agent to form a layout of the lands held by various petitioners referred to above. Accordingly, the deponent herein formed a layout and the layout was duly sanctioned. After the sanction, an extent of 10560 sq.mts was reserved for roads in several Survey Numbers as referred to in the schedule of the Gift Deed, which was gifted, by a Deed dated 15.12.1999 bearing Doc.No.5763 of 1999 SRO Ambattur to the Commissioner Puzhal Panchayat Union in the same Deed to an extent of 2782 sq.mts was reserved for park and open area was gifted to the local body. The total

extent of land covered under the layout is 9.23 acres and the total number of plots approved was 137. These plots numbering 137 have been sold to various persons. The layout does not relate to the land in Survey Nos.66/3D1, 66/4A, 69/1B and 95/1B3 referred in the impugned order of the 2nd respondent dated 15.07.1992. However, the lands in Survey Nos.98/2A1, 102/1, 2A1, 2A2A, 2A3, 3, 4A, 4B, 103/1, 2, 104/1B, 2A, 2B, 105/1A1, 107/1C, 1D, 1E, 109/5A1A, 109/5A1B, 5A2, 5B and 109/5C of Kadirvedu Village belonging to the petitioners alone is covered under the layout.

3. The entire layout had already been sold to the third parties and the third parties are in possession and enjoyment of the various pieces of lands. After sales, the deponent was summoned by the Assistant Commissioner, Urban Land Tax, in respect of lands covered under the layout for an enquiry. On 28.12.2005, the deponent appeared before the authorities. The 2nd respondent is also an Officer dealing with the urban land tax matters and he has passed an order of assessment dated 25.08.2006, levying tax for fasali 1409 to 1414 in respect of lands referred to above. The assessment order of the 2nd respondent refers to the sanction of the layout by CMDA and the gift of road and other public area to the local body vide document dated 15.12.1999. These documents very clearly establish the possession and enjoyment of the lands by the petitioners and their transferees in interest. While so, the purchasers who are in possession and enjoyment of the lands were shocked to know that the lands in their possession have been inspected by the revenue officials and when they were questioned during their inspection, it was revealed that the lands have been acquired under the Tamil Nadu Urban Land Ceiling Act 24 of 1978.

4. The deponent of the petitioners herein, being the Power Agent was contacted by the purchasers. The deponent and the petitioners as owners having undertaken to cure any defect in title of the purchasers are constrained to file this writ petition under the Article 226 of Constitution of India, questioning the orders of the 2nd respondent acquiring the lands under Tamil Nadu Urban Land Ceiling Act 24 of 1978. Meanwhile, one of the petitioners applied for certified copies of the order under Section 9(5), 10(1) and 11(5) of the Act. The 2nd respondent furnished certified copies of the orders under Section 9(5), 10(1) and 11(5). From the certified copies, it is seen that the land in Survey Nos.66/3D1, 66/4A, 69/1B, 95/1B3, 98/1I, 100/1, 100/2, 102/2A1, 102/3, 102/1, 4A, 107/1D, 109/3, 109/5A1A of Kadirvedu Village, measuring an extent of 27950 Sq. meter was acquired in the name of Chellammal and others.

5. At the outset, there is no delay or laches in filing this writ, the petitioners were not aware of the proceedings, since the proceedings were initiated in the name of the erstwhile owners. By remaining silent, or allowing the Government to acquire valuable land, the petitioners do not stand to benefit. On the contrary, valuable lands are acquired by the respondents for a very paltry sum as compensation. No notice has been served on the petitioners before acquiring the land. Therefore, there is no delay or inaction on the part of the petitioners in questioning the acquisition proceedings. By filing a writ belatedly, the petitioners run a great risk of losing the land and they do not gain anything. This is the view expressed in the Judgment Reported in AIR 1987 Supreme Court 1353 and AIR 1998 Gujarat 162. The lands belong to several persons and their holding are within the ceiling limit. The holding of these persons never exceeded the limit prescribed under Act 24/78 and hence there was no impediment in developing the lands and selling to third parties. From the impugned order of the 2nd respondent, it is seen that the proceedings were initiated in the names of Smt.Chellammal and Smt.Saroja, Ganesa Reddy and Gopal, son of Ganesa Reddy. There is no address given in respect of the owners in whose names proceedings were initiated. From the impugned order of the 2nd respondent, it is seen that there is a clear admission by the 2nd respondent that no details are available in regard to the ownership of the lands. That is why, no address is given in respect of names referred to in the impugned order. This shows the lack of application of mind in acquiring the lands.

6. In fact, the lands belonging to several persons have been clubbed in one order and an extent of 27950 sq.mts is proposed to be acquired as excess vacant land and notice under Section 9(4) together with Draft Statement under Section 9(1) of the Act were issued. One of the owners viz., Gopal appeared and has given a statement. The property is an ancestral property belonging to different family members. Further, an extent of 5000 Sq. meters towards family entitlement is given to them in respect of the lands to which they are not the owners at all. The 2nd respondent has taken the report of the Deputy Tahsildar into account and has acquired an extent of about 22950 Sq. meters as excess after conferring an extent 5000 Sq. meters towards family entitlement in Survey No.66/3A1, 66/4A, 69/1B and 95/1B as retainable area. The retainable portion allowed to the land owners does not belong to the petitioners and on this ground also, the order cannot be set aside.

7. The order under Section 9(5) merely states that the notice under Section 7(2) was sent and served by affixture on 21.01.1992. To whom it was served is not clear. The mode of service is also silent. Further, the order under Section 9(5)

merely states that the notice under Section 9(4) together with draft statement under Section 9(1) was served by affixture on 09.06.1992. Time and again the Courts have held that the Notice has to be served as per the provision of the Act and Rules framed thereunder and not according to the whims and fancies of the respondents. The respondents have not taken any steps to serve it to the real land owner by proper mode of service as prescribed under the rules. Obviously, the address given in the impugned order is defective and lacks particulars. Under these circumstances, it is common knowledge that notice under Section 9(4) together with draft statement under Section 9(1) was not served on the land owner. Hence, the proceedings initiated without notice cannot be sustained. From the impugned order, it is not clear whether the notice was served by the Registered Post Acknowledgment Due. Under Rule 8 of Tamil Nadu Urban Land Ceiling Rules, the mode of service contemplated is by Registered Post Acknowledgment Due. In this case, no such efforts have been taken by the 2nd respondent to serve notice on the actual landowner and the various statutory notices were not served on the land owner properly. Therefore, non-service of notice which is mandatory vitiates the order of acquisition.

8. The 2nd respondent has observed that no objections have been received from the land owner after service of notice under Section 9 (4) and draft statement under Section 9(1) and the family details of the land owners were not submitted. As stated already, when the notices were not served properly, it was impossible for the land owner to submit any objections. It is pointed that the lands are agricultural lands and after the Act was repealed with effect from 16.06.1999 by Act 20 of 1999, the land owners executed several Power of Attorneys in the deponents name and the deponent formed a layout. The layout was duly sanctioned after the repeal of the Act and sold to several persons. Under these circumstances, the proceedings are without reference to the right, title and ownership of various Petitioners referred to above. The possession which the respondents may claim to have taken pursuant to notice under Section 11(5) dated 12.08.1998 would be merely on paper, whereas actual possession is still with the petitioners and the successors in interest. There is no record with the respondents to prove that possession has been taken after preparing a Panchnama or memorandum signed by witnesses. Paper possession, cannot be equated to that of actual physical possession. A person can be deprived of the property and he may be ousted from the same only in accordance with the procedure laid down under the Act. If there is any deviation in the procedure, it amounts to infringement of Article 300A of the Constitution of India. Under Article 300-A, no person can be deprived of the property without following the procedure laid down. In this context, Section 11(5) contemplates issuance of notice for voluntary surrender of land. If the land owner or persons in possession

fail to surrender the land in his/their possession, then power is conferred on the respondents to take possession of the land by use of force under Section 11(6) of the Act. At the first place, notice under Section 11(5) has not been served on any of the petitioners and neither on the erstwhile landowners, nor the petitioners, have surrendered the lands under Section 11 (5). Secondly, to the best of their knowledge, no proceedings have been drawn up under Section 11(6) of the Act. When possession is actually with the petitioners, all proceedings shall abate under Section 4 of Act 20 of 1999. From the various documents enclosed in the typed set of papers, it is absolutely clear that the petitioners are in possession and enjoyment of land in Survey No.102/1 etc. The possession which the respondents claim to have taken merely on paper will not be of any use to them. This Court, in several judgments have taken the view that paper possession is not actual possession and paper possession is not contemplated under the provisions of the Act. In this regard, the judgments of this Court, rendered in W.P.No.6641 of 1997, W.P.No.22553 of 2003 and W.P.No.35490 of 2004 and W.P.No.27240 of 2005 etc., are relevant. In all these judgments, the Court has taken the view that the respondents shall taken possession which means that the land owner shall be dispossessed physically or ousted physically from the property. In the absence of divesting of actual physical possession, any claim by the respondents that they have taken possession, will be of no use.

9. The Apex Court in the judgments reported in AIR 1975 SC at Page No.1767 and AIR 1996 SC at Page No.3377 has held that a person shall be deprived of possession only after preparation of a Memorandum or Panchanama signed by witnesses. Under these circumstances, it shall be construed that possession is with the petitioners and all proceedings shall abate under Section 4 of Act 20 of 1999. Hence, this writ petition is filed.

10. The 2nd respondent submits that the writ petition has been filed praying to issue a Writ of Certiorarified Mandamus or any other order in the nature of a writ calling for the records of the respondents especially the order of the 2nd respondent dated 15.07.1992 in Na.Ka.2215/92/D under Section 11(5) respectively of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 relating to the lands in S.No.98/1A, 98/1I, 102/2A1, 102/3, 102/4A, 107/1D, 109/3, 109/5A1A measuring an extent of 10250 Sq.meters of Kadirvedu Village, Ambattur Taluk, Thiruvallur District and quash the same and treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act (Act 20 of 1999) so as to enable the 3rd respondent to incorporate the names of the petitioners and their successors in interest as owners in all the revenue records. This writ petition is not sustainable either in law or on facts and the same is liable to be dismissed.

11. The 2nd respondent submits that one Ganesa Reddy was found to be the owner of the following lands in Kadhirvedu Village, Ambattur Taluk as per revenue records under patta No.39. Village Kadhirvedu:

Survey Number	Extent in Sq.metres
66/3D1	850
98/1I	600
66/4A	2750
69/1B	1350
95/1B3	3950
98/1A	1500
100/1	6650
100/2	2150
102/3	1600
102/4A	400
107/1D	1050
109/3	1800
109/5A1A	2600
102/2A1	2600
Total	27950

The Urban Landowner did not file return under Section 7(1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978. Hence, a notice under section 7(2) of the said Act was issued by the 2nd respondent being the Competent Authority, Urban Land Ceiling, Madhavaram in Rc.No.2215/92/D, dated 21.01.1992. The notice was served by affixture since the Urban Land Owner has refused to receive it. No objection was received. Later a draft statement under Section 9(1) along with notice under Section 9(4) of the Act was issued on 29.05.1992 calling for objection if any for the proposed acquisition of excess vacant land of 27450 Sq.meters. The Draft Statement was served on Gopal, S/o.Ganesa Reddy on 09.06.1992 who is the 1st petitioner herein and G.Gopal appeared for enquiry on 08.07.1992 before the Deputy Tahsildar, office of the 2nd respondent and gave a written statement stating that his father Ganesa Reddy expired leaving behind him two wives. He had also furnished the details of family members of two families. The Competent Authority, Urban Land Ceiling, Madhavaram, i.e., 2nd respondent herein allowed family eligibility and arrived at the excess vacant land as follows:

Family Eligibility:

I.	Chellammal	wife	..	500 Sq.meters
	Valliammal	Daughter	..	500 Sq.meters
II.	Saroja	Wife		
	Usha	Daughter		
	Muthu	Son	..	2000 Sq.meters
	Amulu	Daughter		
III.	Gopal	Son		
		S/o.Ganesan		
	Rupavathi	Wife		
	Mohan	Son	..	2000 Sq.meters
	Babu	Son		-----
		Total		5000 Sq.meters

After allowing 5000 Sq. meters towards family entitlement, the excess vacant land was arrived as 22950 Sq. meters in the following Survey numbers.

Village:Kadhirvedu:

Survey No.	Total Extent	Entitlement Allowed	Excess Vacant land
66/3D1	850 Sq.mts	850 Sq.mts	--
66/4A	2750 Sq.mts	2750 Sq.mts	--
69/1B	1350 Sq.mts	1350 Sq.mts	--
95/1B3	3950 Sq.mts	50 Sq.mts	3900 Sq.mts
98/1A	1500 Sq.mts	--	1500 Sq.mts
98/1I	600 Sq.mts	--	600 Sq.mts
100/1	6650 Sq.mts	--	6650 Sq.mts
100/2	2150 Sq.mts	--	2150 Sq.mts
100/2A1	2600 Sq.mts	--	2600 Sq.mts
102/3	1600 Sq.mts	--	1600 Sq.mts
102/4A	400 Sq.mts	--	400 Sq.mts
107/1D	1050 Sq.mts	--	1050 Sq.mts
109/3	1800 Sq.mts	--	1800 Sq.mts
109/5A1A	700 Sq.mts	--	700 Sq.mts
Total	27950 Sq.mts	5000 Sq.mts	22950 Sq.mts

12. The 2nd respondent passed order under Section 9(5) of the Act in his Proceedings Rc.No.2215/92, D, dated 15.07.1992 to acquire the excess vacant land of 22950 Sq.meters. The 9(5) order was served on Gopal on 28.07.1992. Then, final statement under Section 10(1) of the Act was issued on 26.03.1993 and it

was also received on Gopal, 1st petitioner herein. Notification under Section 11(1) of the Act was issued on 09.05.1994 and published in Tamil Nadu Government Gazette No.20, Part VI Section I at page 499 to 501 on 25th May 1994. Notification under Section 11(3) of the Act vesting the land with Government was issued on 07.01.1997 and published in Tamil Nadu Government Gazette, dated 19.02.1997 at page 330. The notice under Section 11(5) of the Act was issued on 13.08.1998 directing the Urban Land Owner to surrender possession of the excess vacant land was taken over on 26.05.1999 and was handed over to Revenue Authorities. A notice under Section 12(7) of the Act was issued on 26.08.2003. Order under section 12(6) of the Act determining the amount payable as Rs.11,475/- was issued on 19.09.2003 and served on Tmt.Rupavathi. The amount was drawn and kept in Revenue Deposit in Sub-Treasury, Ambattur vide Challan No.55, dated 17.01.2006 as the Urban Land owner did not turn up to receive the amount. At this stage, one Thiru.K.Thirupathiah applied and obtained the certified copies of acquisition proceedings on 20.06.2005. Now, Thiru.K.V.Thirupathiah, as a Power Agent of Thiru.G.Gopal and 18 others has filed this writ petition in W.P.No.11028/2009.

13. The 2nd respondent submits that the petitioner has tabulated the details of the ownership of the land. The Power of Attorney documents were made and registered on 27.09.1999 i.e, after the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act 1999 came into force. The transactions are not valid as per section 6 of the Principal Act 24 of 1978 and are null and void since the lands were registered in the revenue records at the commencement of the Act 24 of 1978. Hence, the petitioners now cannot claim right over the caselands. The contentions of the petitioners are incorrect.

14. The 2nd respondent submits that the petitioner has referred the approval of layout by C.M.D.A in respect of S.No.98/2A1, 102/1, 102/2A1, 2A2A, 2A3, 3, 4A, 4B, 103/1,2, 104/1B, 2A, 2B, 105/1A1, 107/1C, 1D, 1E, 109/5A1A, 109/5A1B, 5A2, 5B and 109/5C of Kadhirvedu Village. Of the above lands, the lands in S.No.102/2A1, 102/3, 102/4A, 107/1D, 109/5A1A relate to this case which were acquired from Chellammal and Saroja wives of Late Ganesa Reddy and G.Gopal, Son of Late Ganesa Reddy in whose name the lands were registered as per revenue records. G.Gopal, Son of Ganesa Reddy and the 1st petitioner herein had received the notices and statements during the course of action taken on acquisition. After following the procedures laid down under the Act, the lands were acquired and vested with Government on 01.03.1997 and possession was taken over by the Revenue Authorities. The petitioner Power Agent applied on 20.06.2005 for the issue of certified copies of acquisition proceedings and received the same. As such, he was

aware of the acquisition proceedings. The Urban landowner has suppressed the facts and sold out the land, which is against the provisions of the Act. Hence, the contention of the petitioner is unacceptable.

15. The 2nd respondent further submits that assessment orders under Tamil Nadu Urban Land Tax Act were passed for a few lands by the 2nd respondent on the event of conversion of the lands based on the C.M.D.A's Approval. The 1st petitioner herein had received the Draft Statement under section 9(1) and had given a written statement before the Deputy Tahsildar of the Office of the 2nd respondent. The subject lands were acquired after following the procedures as laid down in the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 and the lands were vested with Government on 01.03.1997. The sale and purchase of the acquired land is not valid as per section 6 of the Act and sales are null and void. The possession of the land said to have been with the petitioners is false one. The Power of Attorney applied in the year of 1999 is an afterthought to usurp the Government land. Hence, the petitioners cannot claim right over the land and their possession is liable to be dispossessed.

16. The 2nd respondent submits that in this case, acquisition process was commenced in the year of 1992 and completed in the year 1998 itself. The excess vacant land was taken possession on 26.05.1999. The 1st petitioner herein was aware of the acquisition proceedings. The notifications under Section 11(1) and 11(3) of the Act were published in the Tamil Nadu Government Gazette for public notice. The Power of Attorney deeds made and registered in the year of 1999 is not legal and not valid as per Section 6 of the Act 24/78. Hence, the possession of the land by them is false one and is liable to be dispossessed. The petitioners themselves have stated that the lands were sold as plots and the possession of the land is with the purchasers. Hence, they have no right over the land and have no locus standi to file the writ petition. If so desire, the plot purchasers of the acquired land may seek remedy under 'Innocent Purchasers' scheme as per G.O.Ms.No.565, Revenue dated 26.09.2008. The 2nd respondent submits that the 1st petitioner herein had received the notices and statements during the course of acquisition. He appeared before the 2nd respondent and gave a written statement on 08.07.1992. He had given particulars of family members. The 2nd respondent, after examining the records, allowed 5000 Sq. meters towards family entitlement under section 5(1) of the Act. Hence, the contention of the petitioner that they came to know the acquisition proceedings only on receipt of certified copies of order during 2005 is not acceptable. The lands were acquired after following the procedures and taken over by the Revenue Authorities before the commencement of the Repeal Act. The petitioners have no locus standi to file the writ petition since

they themselves have stated that the lands were sold out as plots. The contention of the petitioner is unacceptable. The 2nd respondent submits that the petitioners have stated that no notice was served to them and they were not aware of the proceedings initiated in the name of erstwhile owner. Action was initiated in the names of wives and son of Late Ganesa Reddy in whose name the lands stood registered in the revenue records. G.Gopal, son of Ganesa Reddy and 1st petitioner herein received the Draft statement under Section 9(1) and notice u/s 9(4) of the Act 24/78. He appeared in the Office of the 2nd respondent and gave a written statement on 08.07.1992. He had furnished details of family members. Accordingly, family entitlement was allowed 5000 Sq. meters and orders under Section 9(5) of the Act was passed on 15.07.1992. This order was received by him (1st petitioner herein) on 28.07.1992. The final statement under section 10(1) of the Act was also received by him on 12.04.1993. The notifications under section 11(1) and 11(3) of the Act were published in the Tamil Nadu Government Gazette for the notice of the Public. As such petitioners statement that no notice was served is utterly a false one. It is submitted that the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 was enacted with a view to curb the concentration of land in the hands of a few persons for speculation and profiteering therein and to bring about an equitable distribution of lands to Subserve the common good. Whereas, the petitioners have stated of their own gain and benefit. Moreover, there is no mention of the word "Compensation" anywhere in the Tamil Nadu Urban Land (Ceiling and Regulation) Act. The payment of amount under Section 12(6) of the Act was drawn and kept in Revenue Deposit in the year 2006. Hence, there are no pending proceedings under Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978. The writ petition is not maintainable in law or on facts.

17. The 2nd respondent submits that any transaction after the commencement of the Act is void as per section 6 of the Act. In this case, as stated supra, the subject lands were acquired from the legal heirs of Late Ganesa Reddy in whose name the lands stood registered in the revenue records at the commencement of the Act. The lands were taken possession before the commencement of Repeal Act 1999. The Power of Attorney deeds made and registered in the year of 1999 is an after thought of the petitioners to usurp the Government lands. The petitioners themselves have stated that they sold the lands as plots to several persons. As such they have no locus standi to file this writ petition.

18. The 2nd respondent submits that the lands stood registered in the name of Ganesa Reddy. Action was initiated in his name and notice under 7(2) and Draft statement under Section 9(1) and notice under Section 9(4) were issued on 21.01.1992 and

29.05.1992 respectively. After the receipt Draft statement, Thiru.G. Gopal, son of Ganesa Reddy appeared in the office of the 2nd respondent on 08.07.1992 and gave a written statement. Further, order under Section 9(5) and final statement under section 10(1) were also received by him. Hence, the 1st petitioner was aware of the proceedings. Hence, the contention of the petitioners that no address was given in the notices issued during the acquisition proceedings is not acceptable.

19. The 2nd respondent submits that the petitioners themselves admitted that the 1st petitioner herein viz., G.Gopal received Draft statement under Section 9(1) and he appeared and gave a written statement. In the written statement he had furnished the details of family members, which have been suppressed in this paragraph by the petitioners. An extent of 5000 Sq.meters was allowed towards family entitlement to the three families of the erstwhile land owner. Action taken is absolutely correct. The petitioners themselves have stated that they are the owners of the subject lands by creating a Power of Attorney deed on 27.09.1999 which is an afterthought. The 2nd respondent states that the petitioners have stated the lands were sold as plots to various persons. As such, it is not known how they claim ownership of the lands. The subsequent purchasers of plots can have remedy under 'Innocent Purchasers' Scheme. Hence, the petitioners cannot claim right over the acquired lands. The 2nd respondent submits that as stated supra all statutory notices, statements and orders were served as per rules contemplated under the Act. The notification under section 11(1) and 11(3) were published in the Tamil Nadu Government Gazette. The 2nd respondent submits that the petitioners themselves admitted that one of the petitioners viz., Gopal had given statement and family entitlement was allowed to an extent of 5000 Sq. meters and had also stated that no objection was filed after the receipt of draft statement under section 9(1). Their contention are contrary to one another. They filed this writ petition with an afterthought to usurp the Government land. The 2nd respondent submits that the lands in question stood registered in the name of Ganesa Reddy only as per revenue records at the commencement of the Act. G.Gopal, Son of Ganesa Reddy (1st petitioner herein) did not produce any records. After taking into consideration of details furnished by him, the Competent Authority i.e., the 2nd respondent herein has allowed an extent of 5000 Sq. meters towards family entitlement. The acquisition process was completed as early as 1998. The Power of Attorney deeds executed in the year of 1999 is not valid ad per section 6 of the Act 24 of 1978 and it is an afterthought of the petitioners claiming right over the Government land which is not acceptable.

20. The 2nd respondent submits that the 1st petitioner herein had received the notices, statements and orders during the course of acquisition, he filed a statement in the office of the 2nd respondent on 08.07.1992. After examining the records, subject lands were acquired after following the procedures laid down in the Act 24 of 1978. The excess vacant land was vested with Government by notification under Section 11(3) of the Act in Tamil Nadu Government Gazette and the land was taken over by the Revenue Authorities on 26.05.1999. The land was handed over and taken over by signing the Land Delivery receipts by the authorities concerned. In respect of vacant lands, possession can only be symbolic and on records it will amount to actual possession. The petitioner's contention that they are in possession of the lands can only be construed as an unlawful possession of the Government land. The various judgments cited in paragraph 18 are related to those particular cases only. The possession of the vacant land taken over by Government can be only on record and the record will amount to actual possession. The land was sold to various persons as house site plots. Hence, the petitioners cannot claim right over the Government land. The 2nd respondent submits that the 1st petitioner herein was aware of the acquisition proceedings taken under Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 in respect of subject lands. An extent of 5000 Sq. meters of land was allowed to the family of two wives of Urban Land Owner and son viz., G.Gopal towards family entitlement. After following the procedures, the land was taken over on 26.05.1999 before the commencement of Repeal Act 20 of 1999. The action taken is saved under section 3(1) (a) of Repeal Act 20/99 which provides that repeal of Principal Act shall not affect the land vested with and possession of which was already taken and handed over to Revenue Department. The petitioners have executed Power of Attorney deeds from the period of 27.09.1999 to 15.11.1999 which is against the provisions of the Act 24/78. The transactions are null and void as per section 6 of the Principal Act 24/78. Hence, the petitioners are not entitled to the benefit of section 4 of Repeal Act 20/99. The writ petitioners have stated that the land was laid out into plots and sold by them. The petitioners themselves have stated that the purchasers are in possession and enjoyment of the land purchased by them. Hence, in any event the petitioner have no locus standi to file the writ petition and to claim right over the land. The Government have now passed orders in G.O.Ms.No.565, Revenue Department dated 26.09.2008 for regularization of the land purchased by the innocent purchasers without knowing the acquisition proceedings. Hence, the purchasers of the acquired land are having alternative remedy to get their relief and on that score the above writ petition is not sustainable and liable to be dismissed.

21. The learned counsel Mr. Ramesh appearing for the petitioner submits that all the petitioners are the owners of the lands of the subject matter of the property. All the petitioners are in possession and enjoyment of the land and their holdings, are within the seeking limits prescribed under the Tamil Nadu Urban and Ceiling Act. The petitioners authorized the deponent herein as their Power Agent to form a layout of the lands held by the petitioners. Accordingly, the Power Agent formed a way out and the said layout was duly sanctioned by the Competent Authority. As per the sanction of the layout, the land to an extent of 10560 Sq meters was allotted for the purpose of roads formations, the same was gifted to the Commissioner, Puzhal Panchayat Union under a registered gift deed. Besides, the land to an extent of 2782 Sq. meters was reserved for park and open area was gifted to the local body. The total extent of land covered under the layout is 9.23 acres and the total number of plots approved was 137.

22. The very competent counsel further submits that the said plots had been sold to various persons. Part of the lands does not relate to the impugned order of the 2nd respondent. After alienating all the plots to the 3rd parties, the deponent was summoned by the 2nd respondent for an enquiry, accordingly he had appeared before the 2nd respondent. The learned counsel pointed out that as per the registered gift deed some portion of the land had been allotted to the Panchayat Union and some portion of the property had been allotted to the local body concern for public purpose. Under the circumstances the Revenue Authorities made enquiry with the lawful occupants. The land acquisition proceedings had been initiated against the erstwhile owners of the property. The impugned order has been passed by the 2nd respondent on the legal heirs of late Ganesan Reddy, further the impugned order has not revealed the required particulars. The 2nd respondent has collected a report from the Deputy Tahsildar and passed the impugned order, further the respondents have not strictly followed the Tamil Nadu Urban Ceiling Act for acquiring the subject lands and as such the land Acquisition Officer had committed a lapse in order to acquire the excess land under the Act. Actually, the original owners have not participated in the enquiry proceedings since notices were not served on them. Originally, the subject land had been classified as agricultural lands. After the repeat Act came into force the layout has been sanctioned after observing all legal formalities, subsequently the approved plots had been sold out to the various private individuals, on the strength of sale deeds all the relevant records have been initiated in the name of the respective plot owners.

23. The very competent counsel further submits that the petitioner died had been executed among the landowners. However, the land acquisition proceedings notices were not

served on them. Hence, the very competent counsel entreats the Court to allow the writ petition, Since, the occupants are enjoying their respective properties without any indifference from the date of their respective sale deeds.

24. The highly competent Government Advocate Mr.P.Karthikeyan, appearing for the respondents submits that as per the Revenue records one Ganesan Reddy was the owner of the property and patta also was standing in his name. The 2nd respondent sent an issued notice under Section 7(2) of the Tamil Nadu Urban Land Ceiling Act by way of affixture since the land owner refused to receive the said notice. After receipt of the said notice no objection was received by the land owner, thereafter the graft statement was published and subsequently acquired to an extent of 22950 Sq. meters after allowing 5000 Sq. meters to the landowners as per the Act. The impugned order was served as the landowner subsequently publication was issued in the Tamil Nadu Government Gazette. The acquired lands handed over to the Government/Revenue Authorities. The compensation amount had been assessed and kept in Revenue Deposit at the Sub Treasury in Ambattur.

25. The very competent Government Advocate further submits that the registered power has been executed by the above mentioned 19 writ petitioners who have executed a Power of Attorney in the name of Tirupathy Iyer on 27.09.1999. All the writ petitioners have no rights to authorize the Power Agent in order to maintain the said property since before executing the 2nd respondent herein had initiated acquisition proceedings in the month of January 1992, the same was completed in the year of 1994. Before executing the said power the acquired surplus lands had been handed over to the Revenue Authorities. Therefore, on the strength of power the deponent cannot out with on the subject matter of the lands, since the registered power deed is not sustainable under law, further if any authority attached to the Government with approved plan the same is not valid since it has been erroneously granted by the authority concerned. The gift deed executed by the Power Agent on 15.12.1999 which is a self serving document, since it has been a created one. Therefore, the very competent Government Advocate Mr.P.Karthikeyan, makes a deep request to dismiss the above writ petition, since the impugned order of the 2nd respondent is fit to be proceeded upon any further.

26. On Considering the facts and circumstances of the case and arguments advanced by the learned counsel on either side, the view of the Court that the 2nd respondents/Assistant Commissioner, Urban Land Ceiling had initiated land acquisition proceedings to acquire the excess vacant land to an extent of 22950 Sq. meters in his proceedings dated 21.01.1992, the said proceedings had been completed after observing all legal

formalities. The 2nd respondent herein had been completed after observing all legal formalities. The 2nd respondent herein had handed over the surplus vacant land as per the Tamil Nadu Urban Ceiling Act on 26.05.1999. As such the said property is vested with the Revenue Authority and not with the writ petitioner. Therefore the registered deed had subsequently been executed by the above writ petitioners, since the writ petitioners have no valid title deeds over the said properties, therefore, the above writ petition does not generate sufficient force, hence it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Commissioner and
Commissioner of Land Reforms,
Chepauk, Chennai - 600 005.

2.The Assistant Commisioner/U.L.T,
Competent Authority (Urban Land Ceiling),
Madhavaram Zone,
No.2, Vivek Nagar, Kolathur,
Chennai - 99.

3.The Tahsildar,
Ambattur, Chennai.

+1cc to Mr.V. Ramesh, Advocate, S.R.No.60440

+1cc to the Government Pleader, S.R.No.60753

EV(CO)
EU(18/03/2016)

W.P.No.11028 of 2009
and
M.P.Nos.1 of 2009 and 1 of
2010