

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.10553 of 2016 &  
WMP Nos.9259 & 9260 of 2016

1 Arumugam  
2 Valli

[ PETITIONERS ]

Vs

1 The Director  
Urban Land Ceiling & Urban Land Tax  
Chepauk, Chennai-600 005.

2 The Assistant Commissioner cum  
Competent Authority  
Urban Land Ceiling,  
Salem.

3 The Assistant Commissioner cum  
Competent Authority  
Jawan Bhavan 2nd Floor  
Urban Land Ceiling , Erode.

4 The Tahsildar  
Salem West, Salem.

5 The Village Administrative Officer  
Sivadhapuram  
Salem Taluk & District.

[ RESPONDENTS ]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified mandamus to call for the entire records in S.R.No.A1/20/93 dated 28.02.1994 from the file of the 2nd respondent quash the same as far as the petitioners are concerned and forebear the respondents from interfering with the petitioners peaceful possession and enjoyment of the lands measuring an extent of 1540 sq.ft. in Survey No.157/1P and 157/1R Sivadhapuram Village, Salem Taluk and District.

For Petitioners : Mr.D.Shivakumaran

For Respondents : Mr.R.Rajeswaran  
Special Govt. Pleader

## O R D E R

Heard Mr.D.Shivakumaran, learned counsel appearing for the petitioners, Mr.R.Rajeswaran, learned Special Government Pleader, accepting notice for the respondents and with the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The petitioner in this Writ Petition seeks for issuance of a writ of certiorarified mandamus to quash the order passed by the second respondent dated 28.02.1994, as far as the petitioners are concerned and consequently forebear the respondents from interfering with their peaceful possession and enjoyment of the lands measuring an extent of 1540 sq.ft. in Survey Nos.157/1P and 157/1R Sivadhapuram Village, Salem Taluk and District.

3.The petitioners case is that the lands which was purchased by them vide Sale Deed dated 29.6.1992, is covered in the total extent of property measuring 19,306 sq.mtrs in Survey Nos. 157/1P and 157/1R Sivadhapuram Village, Salem Taluk and District, which was the subject matter of proceedings under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 and the said acquisition proceedings were quashed by this Court by an order dated 07.06.2011 in WP.Nos.8610 to 8612 of 2004.

4.When the case came up for hearing on 23.3.2016, the learned Special Government Pleader was directed to get instruction in the matter and accordingly, when the matter is heard today, the learned Special Government Pleader on instructions submitted that the present Writ Petition is covered by the decision rendered in the earlier Writ Petitions. For better appreciation, the operative portion of the order passed in WP.Nos.8610 to 8612 of 2004, is quoted herein below:

"10. Mr.D.Shivakumaran, learned counsel for the petitioners submitted that the issue raised in these writ petitions is squarely covered by a judgment of this Court in Prathiba Venkataraman v. The Assistant Commissioner and another reported in CDJ 2009 MHC 468 (W.P.No.6931 of 2000) dated 27.01.2009. This is for the purpose of relying upon the finding that if no notice is given to the original land owner or the person in whose name land stands in the records, then the proceedings are invalid. Even otherwise, the issue raised in these writ petitions viz., that no proper notice was given under Section 9(5) of the Act and the lands were agricultural land and hence not

covered by the provisions of the ULC Act and that after the repealing Act, if possession continues to vest with the land owner and not taken by the Government, then the land owners are entitled for benefit under Section 4 of T.N.Act 20 of 1999. In this regard, a reference may be made to the judgment of this Court in G.P.Saraswathi and others v. Assistant Commissioner cum Competent Authority reported in (2010) 8 MLJ 449. In that case, this court dealt with the scope of the peaceful possession being taken and referred to the judgment of various decisions of the Supreme Court. It was held that if possession is not taken, then repealing Act will enure to the benefit of the land owners."

5.Thus, following the above order, as the lands purchased by the petitioners are also covered in the total extent of property which was quashed by this Court, this Writ Petition is allowed as prayed for and the impugned order is set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

r p a

s/d-  
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

- 1 The Director  
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Chepauk, Chennai-600 005.
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Competent Authority  
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Sivadhapuram  
Salem Taluk & District.

+ 1 cc to Mr.D.Shivakumaran, Advocate SR 24733

+ 1 cc to Government Pleader SR 24932

nrII(co)  
prk27/4

W.P.No.10553 of 2016



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