

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. Nos.7425 to 7429 of 2009

A. ABDUL SATHAR .. Petitioner in W.P.No.7425/ 2009
K.CHINNARAJ .. Petitioner in W.P.No.7426/ 2009
S.SURESH BENJAMIN SAGAYARAJ .. Petitioner in W.P.No.7427/ 2009
P.INIAN .. Petitioner in W.P.No.7428/ 2009
A.JEHARA BEE .. Petitioner in W.P.No.7429/ 2009

Vs

- 1 THE COMMISSIONER
LAND REFORMS (CEILING)
EZHILAGAM, CHEPAUK.
CHENANI 600005.
 - 2 THE JOINT COMMISSIONER (LAND FORMS)
ERODE.
 - 3 THE COMPETENT AUTHORITY
(URBAN LAND CEILING) AND
ASSISTANT COMMISSIOENR (URBAN LAND TAX)
ERODE
 - 4 TAHSILEAR
SALEM TALUK, SALEM.
- ... Respondents in all W.Ps.

COMMON PRAYER : Petitions filed Under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records relating to the Notification in SR.No. 83/91-A/1 dated 18.11.1993 on the file of the third respondent herein and to quash the same in so far as it related to Survey Nos. 198/3B, 198/3 "Q", 198/3R, 198/3 "O" & 198/3A, in Annathanapatti village in Salem Taluk and District belonging to the petitioner and direct the fourth respondent to change all the revenue records in the name of the petitioner in respect to survey Nos. 198/3B, 198/3 "Q" 198/3R, 198/3 "O" & 198/3A, in Annathanapatti vilage in Salem Taluk and District, within a time frame as may be fixed.

For Petitioners : Mr.M.R.Suryakumar
For Respondents : Mr.R.Rajeswaran
Spl.Govt.Pleader

O R D E R

Heard Mr.M.R.Suryakumar, learned Counsel appearing for the petitioners and Mr.R.Rajeswaran, learned Special Government Pleader, accepting notice for the respondents and with their consent the Writ Petition is taken up for final disposal.

2.The writ petitions have been filed challenging the notification issued by the third respondent dated 18.11.1993. The said notification has been issued under section 11(3) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (in short the 'Act'). The notification has been issued in the name of one Periaasamy, stating that certain extent of lands in Annadanapatty Village have been declared as excess in the hands of the land owners and the lands have been deemed to have vested absolutely in the State Government free from all encumbrances.

3.The petitioner in W.P.No.7425 of 2009 has purchased a small extent of land measuring about 1500 sq.ft vide sale deed dated 21.10.1965; the petitioner in W.P.No.7426 of 2009, has purchased an extent of 1250 sq.ft by sale deed dated 5.5.2003; the petitioner in W.P.No.7427 of 2009 has purchased an extent of 2500 sq.ft. by sale deed dated 21.10.1965; the petitioner in W.P.No.7428 of 2009 has purchased an extent of 1249.50 sq.ft. vide sale deed dated 31.08.1994 and the petitioner in W.P.No.7429 of 2009, who is the wife of the petitioner in W.P.No.7425 of 2009 has purchased an extent of 1500 sq.ft. vide sale deed dated 21.10.1965.

4.The challenge in all these writ petitions are to the common notification issued by the third respondent in the name of one Periasami. From the records placed before this Court, it is evidently clear that all the revenue records stand in the names of the petitioners and they are in possession of the property and they have constructed houses in the property and the petitioners have also been remitting the taxes and pattas have been issued by the Special Tahsildar.

5.The short question which would fall for consideration is as to whether the petitioners could be dispossessed from the land in question ?

6.The impugned notification is a notification issued under section 11(3) of the Act. Admittedly, the notification does not mention the names of the petitioners, but, it has been issued in the name of one Periasamy. Therefore, if the third respondent sought to proceed further with the matter, he should have been resorted to the power conferred under sub-section (5) of section 11 of the Act. If such procedure had been adopted, then obviously notices to the occupants of the lands should have been issued and for that, the petitioners would have been served with notices. However, there is no record to show that such procedure was resorted to by the third respondent. This fact, therefore, establishes that the petitioners have not been dispossessed in the manner known to law. In such circumstances, the effect of the Repeal Act No.20/99 would come into operation which protects owners of the lands, which continue to be in possession of the persons who have purchased the property.

6.From the documents placed before this Court, it is seen that the petitioners have purchased meagre extent of lands that too from the year 1965 onwards and admittedly, the impugned proceedings came to be issued in 1993 and there is no further proceedings initiated under section 11(5) of the Act and there is nothing to show that the actual physical possession was taken over by the third respondent. In such factual situation, the effect of the Repeal Act protects the petitioners.

Accordingly, the Writ Petitions are allowed and the impugned Notification stands quashed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

rpa

To

- 1 THE COMMISSIONER
LAND REFORMS (CEILING)
EZHILAGAM, CHEPAUK, CHENANI 600005.
- 2 THE JOINT COMMISSIONER (LAND FORMS)
ERODE.

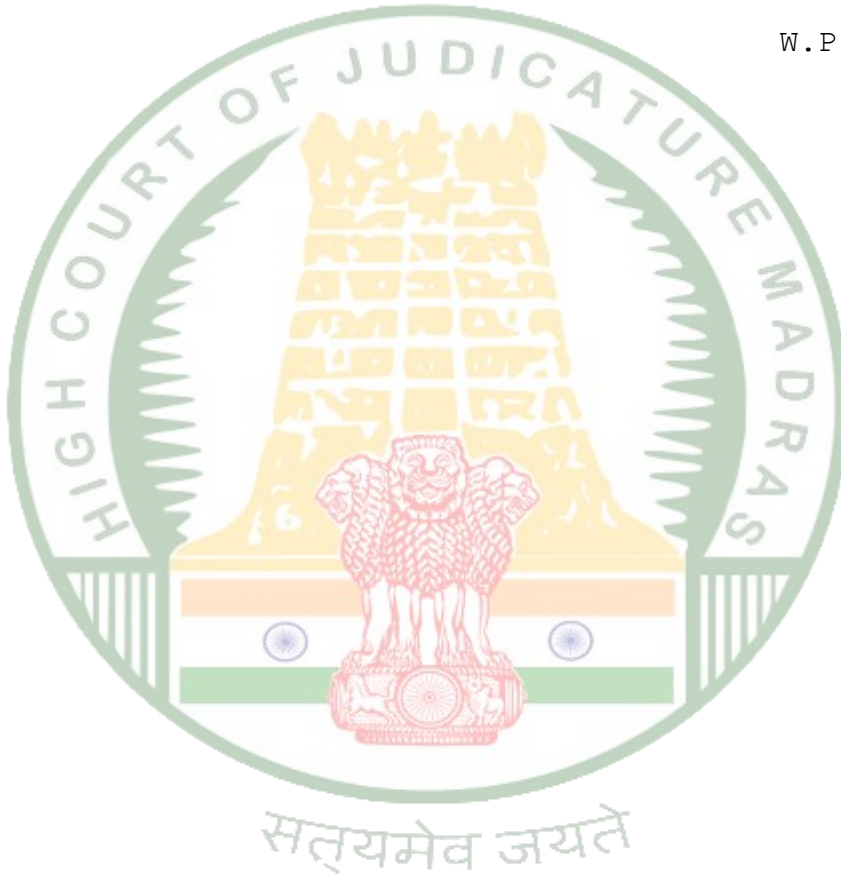
3 THE COMPETENT AUTHORITY
(URBAN LAND CEILING) AND
ASSISTANT COMMISSIOENR (URBAN LAND TAX), ERODE

4 TAHSILEAR
SALEM TALUK, SALEM.

3 ccs to Mr.S. Rajeswaran, Advocate Sr. 1568, 1567
1 cc to Government Pleader, Sr. 1804

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7429 of 2009

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