IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON : 26/10/2015

DATED : 18/01/2016

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.6133 of 2015
and
M.P.Nos.1 and 2 of 2015

Vittal Sampath Kumaran ... Petitioner

vs.

1.The Special Commissioner
and Commissioner Urban Land Ceiling and
Urban Land Tax,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The Assistant Commissioner
for Urban Land Tax,
Mylapore,
Tamil Nadu Slum Clearance Board Building,
R.K.Mutt Road, Mandaveli,
Chennai-600 028.

3.The Tahsildar,
Thiruvanmiyur Mylapore Taluk
at Raja Annamalaipuram,
Chennai-600 028. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Declaration to declare that the proceedings initiated by the second respondent under the provision of the Principal Act, Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 in the vacant house site land comprised in Survey No.211/7A, Part of Sea Ward 2nd Lane, Thiruvanmiyur, Chennai-600 041, measuring to an extent of 3.158 grounds i.e, 7579.429 sq.ft or thereabout out of 3.52 grounds at Thiruvanmiyur Village, Mylapore, Triplicane Taluk, Chennai District is abated in view of Section 4 of Repeal Act, 20/99, since the physical possession of the vacant house site land comprised in Survey No.211/7A Part of Sea Ward 2nd Lane, Thiruvanmiyur, Chennai-600 041, measuring to an extent of 3.158 grounds i.e., 7579.429 sq.ft. or thereabout out of 3.52

grounds at Thiruvanmiyur Village, Mylapore Triplicane Taluk, Chennai District is with the petitioner.

For Petitioner : Mr.A.Ramu

For Respondents : Mr.P.Karthikeyan, Government Advocate

O R D E R

The petitioner has submitted that on 25.11.2011, he has purchased the vacant house site comprised in S.No.211/7A (Part) of Sea Ward 2nd Lane, Thiruvanmiyur, Chennai-600 041, measuring to an extent of 3.158 grounds i.e., 7579.429 sq.ft. or thereabout out of 3.52 grounds at Thiruvanmiyur Village, Mylapore Triplicane Taluk, Chennai District in and by a valuable sale consideration from one Mrs.Prabakannan, w/o. Kannan. The said sale has been registered as document No.10055 of 2011 in the District Registrar, Madras South. Since the date of purchase, the petitioner is in absolute possession and enjoyment of the same. The petitioner has further submitted that originally the larger extent of the land comprised in S.No.211/7A was owned and possessed by one Mrs.Kuppammal. The said Kuppammal sold the property of the larger extent of land including the above said land herein to and in favour of one Mr.T.V.Ramanujam under a deed of sale dated 06.05.1955 registered as document No.1183 of 1955 in the Sub-Registrar of Saidapet. After the purchase of the said land by T.V.Ramanujam, he was in absolute possession and enjoyment of the same. While so, the brother of T.V.Ramanujam one Mr.T.V.Purushothaman filed a suit in O.S.No.129 of 1965, on the file of Sub-ordinate Judge at Chengalpattu seeking partition over the above said property. Aggrieved by the judgment and decree passed in the above suit, the said T.V.Ramanujam filed first appeal in A.S.No.114 of 1969 before the District Judge, Chengalpattu. Before it was reaching to finality on 11.06.1973, the said T.V.Ramanujam had expired, leaving behind his two sons viz., (i) T.R.Seshachalam and (2) T.R.Boopalan. They were in absolute possession and enjoyment of the property and by necessity to meet the urgent commitments they were forced to sell the larger property including the vacant house site belonging to them to one Mrs.Prabakannan and Mrs.Thirupurasundari in which the heirs of Mr.R.Seshachalam viz., (1) R.S.Parthiban (2) R.S.Kumar (3) R.S.Mohan and (4) Ms.Kanchana was included as vendors for abundant caution. While so, the heirs of R.Seshachalam filed a suit before this Court in C.S.No.58 of 1989 thereby claiming 1/4th share over the entire land in which a Memo of Compromise was entered between the parties and the same was recorded and decreed the suit as prayed for. Therefore, the above said sale effected between T.R.Seshachalam, T.R.Boopalan and Mrs.Prabakannan and Mrs.Thirupurasundari, sale deed has perfected their title as per the Memo of Compromise.

2. The petitioner has further submitted that after selling out the land in Survey No.211/7A on 01.06.1987 by T.R.Seshachalam and T.R.Boopalan and other heirs of T.R.Seshachalam to the petitioner's Vendor and Mrs.Thirupurasundari the sale deed was registered as document No.1717/1987, 1718/1987 and 1719/1987 registered in the Sub-Registrar of Saidapet. Without knowing the facts and ascertaining the original records, the second respondent herein passed the impugned order in Na.Ka.No.1303/85A, dated 29.08.1991 in the name of erstwhile vendor and thereby determining the excess vacant land of 1450 sq.mt after allowing 500 sq.mt as entitlement area. Moreover, the impugned order itself reflect that the land in Survey No.211/7 to an extent of 48 cents i.e., 1950 sq.mts stands in the name of T.R.Seshachalam. T.R.Boopalan had also given the family members details of T.R.Seshachalam while at the time of enquiry on 15.11.1998. The second respondent neither considered the family entitlement of T.R.Seshachalam nor about the fact that he already sold out the land to the petitioner's vendor. After purchase of the land by the petitioner's vendor, the petitioner's vendor was in absolute possession and enjoyment of the land after effecting mutation entries in her favour in patta No.2355 duly issued by the Headquarters Deputy Tahsildar Mylapore Triplicane Taluk.

3. The petitioner has further submitted that the second respondent without application of mind, has passed the impugned order in the name of erstwhile vendor's who have no right, title or interest in whatsoever manner over the above said property. The vendor of the petitioner has purchased the property on 01.06.1987 and the impugned notice of determination of excess vacant land was on 29.08.1991 without considering the petitioner's vendor's possession or the revenue records, which stands in the name of the petitioner's vendor and no notice has been served to the petitioner's vendor before passing the impugned order. The petitioner has further submitted that as per the impugned order passed by the second respondent herein, a notice under Section 7(2) was served on 30.06.1986. No return was filed by the landowner and as no family entitlement details were furnished and therefore, the second respondent declared as excess vacant land of 7100 sq.mts after allowing 500 sq.mt as entitlement area on various survey numbers including the sold out portions in Survey No.211/7. Notice under Section 9(1) and 9(4) of the Act was issued on 29.08.1986 and 11.09.1986 by affixture in the field by pasting the stick.

4. The petitioner has further submitted that the second respondent neither applied his mind nor verified the true and correct owner of the land while at the time of passing the impugned order in concluding the proceedings since the petitioner's vendor was in absolute possession and the

enjoyment of the same. The petitioner has further submitted that since no notice was served to his vendor and it has been served in the name of the erstwhile vendor by affixture and it violates the Rule 8 of the Principal Act. Further, the physical possession of the land is still with him. Therefore, the physical possession of the land is with the petitioner in title. Neither the Government nor the Authorities concerned have taken the physical possession of the said property from him. The petitioner has further submitted that his vendor was in physical possession of the land from the date of purchase, thereafter, he is in absolute possession and enjoyment of the same. The petitioner went to effect the patta in his name before the third respondent's Office on 09.01.2015 and he came to understand that the said land had already been acquired under the Tamil Nadu Land (Ceiling and Regulation) Act 1978, since he has no notice in whatsoever manner, he is unaware of the said proceedings. Hence, after knowing the impugned proceedings, the petitioner approached the second respondent and they have advised him to challenge the said proceedings. Accordingly, he filed the present writ petition. He has further submitted that there is no laches on his part since the physical possession of the land is with him. He has further submitted that the Principal Act was repealed by the State Act 20 of 1999, therefore, the physical possession of the land is with him, hence benefit of Section 4 of the Repeal Act 20 of 1999 have to be given to him.

5. The petitioner has further submitted that the physical possession of the said land is with him. Though the second respondent passed the impugned order, he has not taken any physical possession neither from the erstwhile owner nor from his vendor till date. Moreover, the Principal Act has been repealed by the State Act 20 of 1999, dated 16.06.1999 and thereby the second respondent's proceedings have been abated because, the petitioner is in physical possession and enjoyment of the same. He has further submitted that the physical possession of the vacant house site land comprised in Survey No.211/7A Part of Sea Ward 2nd Lane, Thiruvanmiyur, Chennai-600 041, measuring to an extent of 3.158 grounds i.e. 7579.429 sq.ft or thereabout out of 3.52 grounds at Thiruvanmiyur Village, Mylapore Triplicane Taluk, Chennai District remains with him and the above said land is exclusively in his possession and enjoyment. The petitioner has further submitted that since Principal Act 24 of 1978 has been repealed by State Act 20 of 1999, in which, the second respondent has no right whatsoever to take physical possession of the vacant house site land comprised in Survey No.211/7A, Part of Sea Ward 2nd Land, Thiruvanmiyur, Chennai-600 041, measuring to an extent of 3.158 grounds i.e, 7579.429 sq.ft or thereabout out of 3.52 grounds at Thiruvanmiyur Village, Mylapore, Triplicane Taluk, Chennai District. The petitioner has further submitted that though the Act was repealed by the

State Act 20 of 1999, if any irregularities happened that may be challenged in a Special Tribunal constituted for the purpose of Urban Land Ceiling. Now, the Tribunal was abolished, hence, the petitioner has filed the above writ petition before this Court.

6. The respondents have filed a counter affidavit and resisted the above writ petition. The respondents have submitted that the petitioner did not verify the ownership of the subject lands with the concerned authority before purchase and even after his purchase contacted the Revenue Authority for change of name for 4 years (2011 to 2015). The purchase of excess vacant land is null and void under Section 6 of the Act and hence, the petitioner has no locus standi to question the acquisition proceedings which attained a finality long before i.e., during 1997. Thus, the petitioner is trying to give life to a dead proceeding and hence, this writ petition is liable to be dismissed on laches of delay. The respondents have further submitted that the petitioner is attempting to mislead this Court by making false claim repeatedly using the word physical possession to suit his purpose and quoting judgments of this Court and the Hon'ble Supreme Court incorrectly to get orders in his favour.

7. The respondents have submitted that the vendor of the writ petitioner, Tvl.Prabakannan and Thirupurasundari were not issued patta to the above land as the land was acquired and stands registered in the name of Government of Tamil Nadu in Revenue records. Therefore, if at all the petitioner had to be aggrieved it should be against his vendors only and not against the Government and as stated above, the purchase is hit under Section 6 of the Act. The land was acquired after issuing notices and orders which were received by the Urban Land Owner. The acquisition proceeding was not challenged by the Urban Land Owner, Thiru.Bhoopalan and by the petitioner's vendor. Hence, the above petition is misconceived and is not maintainable either in law or on facts. The respondents have further submitted that the proceedings shall not be abated under Section 4 of the Act as the proceedings attained finality after following due procedure long before Repeal Act was introduced.

8. The respondents have further submitted that the following lands in Thiruvanmiyur Village was registered in the name of Thiru.V.Ramanujam Chetty vide patta No.31 as per Revenue records.

S.No.	Extent (Sq.mts)
182/7	1700
182/9	2250 (0.56)
211/7	3650 (0.90)

S.No.	Extent (Sq.mts)
132/3	2300 (0.57)

The respondents have further submitted that the Urban Land Owner did not file return under Section 7(1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 (hereinafter called as the Act). Hence, a notice under Section 7(2) of the Act was issued on 30.08.1985 and it was served on Thiru.Bhoopalan S/o.Ramanujam Chetty on 30.06.1986. Then, the above lands were inspected by the Sub Inspector of Survey on 28.08.1986 and found vacant. As no objections were received from the Urban Land Owner, a notice under Section 9(4) along with draft statement under Section 9(1) of the Act were issued on 29.08.1986 for the proposed acquisition of 7100 sq.mts of excess vacant land in S.Nos.182/7 pt, 211/7 pt. This was refused by the Urban Land Owner's son, Thiru.Bhoopalan and therefore, it was served by affixture in the land by the Village Assistant. Later, an enquiry notice was issued on 30.06.1987 requesting Thiru.Bhoopalan to appear for enquiry and it was received on 08.05.1987. Thiru.Bhoopalan appeared before Assistant Commissioner, Urban Land Tax, Mylapore on 15.11.1998 and gave the following details in his statement:-

(a) His father died during 1974 and his mother predeceased him and gave details of his family members.

(b) In S.No.182/7, his father's brother Thiru.Purushothaman filed a civil suit against which A.S.No.881 of 1973 was decreed in his favour.

(c) The lands in S.No.182/9, 211/7 were acquired by Tamil Nadu Housing Board.

(d) The land in S.No.132/3 was already sold as agricultural land.

9. The respondents have further submitted that the Assistant Commissioner, then addressed Special Tahsildar, Tamil Nadu Housing Board regarding the acquisition details. The Special Thasildar, Tamil Nadu Housing Board in his letter dated 20.11.1989 sent the following acquisition details of Housing Board.

S.No.	Extent	Award No. / Date
182/9	0.56	6/83 - dated 22.03.1983
211/7B	0.42	10/83 - dated 30.03.1983
211/7 notification	0.48 (out of total extent of 0.90)	cancellation Published in TNGG dated 06.12.1978

Hence, again an eqnuiry notice was issued on 18.02.1991 and was acknowledged by Thiru.Bhoopalan on 05.03.1991. But, the

Urban Land Owner, did not appear for enquiry and gave proof of his family members. Then, orders under Section 9(5) of the Act were issued on 29.08.1991 and in the orders, the following details were discussed.

S.No.	Extent (Sq.mts)	Details
182/7	1700	Land belongs to Thiru.Purushothaman, hence, not included in the order.
182/9	2250	Lands acquired under TNHB hence, this extent not included in the orders.
211/7	3630 (0.48)	Lands acquired under TNHB, hence this extent not included in the orders.
	1950	Entitlement-500 Sq.mts. EVl-1450 Sq.mts
132/3	2300	Land sold as agricultural land, hence, not included in the orders.

The excess vacant land was arrived at 1450 sq.mts and 500 sq.mts was allowed towards entitlement and ordered to acquire the excess vacant land. The orders were served on Thiru.Bhoopalan on 04.10.1991. The respondents have further submitted that the final statement under Section 10(1) of the Act was issued on 13.07.1992 and sent by registered post with acknowledgment due and received by Tmt.Amsabai on 06.09.1993. The notification under Section 11(1) of the Act was issued on 07.03.1995 and was published in Tamil Nadu Government Gazette on 08.11.1995. The notification under Section 11(3) of the act was issued on 12.01.1996 and was published in Tamil Nadu Government Gazette on 21.02.1996, vesting the land with Government with effect from 13.02.1996. The notice under Section 11(5) of the Act was issued on 25.09.1996. Later, the possession of the excess vacant land was handed over to Revenue Authorities on 22.09.1997. Then, in order to sanction amount for the acquired land, a notice under Section 12(7) was issued on 18.05.1999. On receipt of it, one Thiru.S.Ravichandran, Advocate on behalf of Thiru.Bhoopalan filed a letter objecting to it and requested time to file objections. But, no objections or appeal were filed. Hence, proceedings under Section 12(6) of the Act determining Rs.14,500/- as amount payable was issued on 17.03.2002. It was brought to notice that the land was encroached by Tmt.Tirupurasundari and she was attempting to put up construction in the land. Hence, the Collector, Chennai and Tahsildar, Mylapore-Triplicane was requested to stop construction to evict the encroachment. Later, the amount of Rs.23,200/- (14,500 (principal) + 8700 (interest) was kept in Revenue Deposit on 01.11.2006. After a period of 14 years during 2011, Thiru.Vittal Sampath Kumaran purchased a portion of the acquired land and filed the present writ petition.

10. The respondents have further submitted that the petitioner has narrated about the purchase of the acquired land during 2011. The purchase made is null and void under Section 6 of the Act. The petitioner without verifying the revenue records with the concerned authorities purchased the Government land in contra to the provisions of the Act. The land in S.No.211/7A1 of 1450 sq.mts was acquired after following the procedure. Notices were issued, served on the Urban Land Owner, Thiru.Bhoopalan at each and every stage and the Urban Land Owner in spite of receiving notices, orders and having accepted the acquisition did not file any appeal or objection during the acquisition. Then, the excess vacant land was acquired and possession handed over to Revenue authorities on 22.09.1997 and was registered in the name of Government of Tamil Nadu in Taluk / Village Accounts. Hence, the contention of the petitioner that he is in possession and enjoyment is false, baseless and cannot be accepted.

11. The respondents have further submitted that the petitioner has narrated about the lands held by the previous owners, the civil dispute in the land which are all not denied as it were already known to the Assistant Commissioner, the second respondent herein and was only disclosed by the Urban Land Owner, Thiru.Bhoopalan himself during enquiry on 15.11.1998. The said sale of the land during 1987 were not disclosed by the Urban Land Owner, Thiru.Bhoopalan during enquiry and also the above sale is not valid under Section 6 of the Act. An enquiry notice was issued to the Urban Land Owner on 30.06.1987 and the Urban Land Owner, Thiru.Bhoopalan on 15.11.1988 appeared before the Assistant Commissioner, Urban Land Tax and gave statement regarding the details of the land held by his father and other family members. This was accepted by the petitioner himself in the para 4 of the affidavit. But, later when the Urban Land Owner was requested to submit documents in proof of his family members on 18.02.1991, he did not submit it. Therefore, the Assistant Commissioner passed orders under Section 9(5) of the Act based on the records deleting the S.Nos.182/7 (held by Thiru.Purushothaman) 182/9, 211/7 (extent acquired by the Tamil Nadu Housing Board), 132/3 (sold as agricultural land) and passed orders to acquire only the land in S.No.211/7 pt of extent 1450 sq.mts after allowing 500 sq.mts towards entitlement. Hence, the action taken by the Assistant Commissioner and entitlement allowed is as per provisions of

the Act, which cannot be found fault later. The patta issued to the petitioner's vendor is not valid and hence, the applicants have again applied for patta as per the letter of the Tahsildar, Mylapore - Triplicane Taluk, dated 26.08.2002, addressed to Assistant Commissioner, Urban Land Tax, Mylapore. The Collector, Chennai and Tahsildar, Mylapore-Triplicane Taluk were addressed to remove the encroachments in the acquired land. After acquisition, the acquired land was registered in the name of Government of Tamil Nadu. Therefore, the petitioner, if at all aggrieved has to be only against the vendors and not against the Government.

12. The respondents have further submitted that the land was registered only in the name of Thiru.Ramanujam Chetty in the revenue records as on 03.08.1976. Hence, action was initiated against him. Notice under Section 7(2) of the Act was issued on 30.08.1985 and was served on Thiru.Bhoopalan, Son of the Urban Land Owner on 30.06.1986. But, no return under Section 7(1) of the Act was filed by the Urban Land Owner. Hence, a notice under Section 9(4) along with draft statement under Section 9(1) of the Act was issued on 29.08.1986 for the proposed acquisition of 7,100 sq.mts and as it was refused by Thiru.Bhoopalan, it was affixed in the land by the Village Assistant. Later, Thiru.Bhoopalan during enquiry on 15.11.1988 gave statement before the Assistant Commissioner that his father died during 1974. Therefore, further acquisition was continued in the name of Thiru.Bhoopalan. Hence, the action taken by the Assistant Commissioner in the name of Thiru.Bhoopalan is correct and as per the provisions of the Act. Further, the purchase of land by the petitioner's vendor from Thiru.Bhoopalan, the Urban Land Owner is not valid under Section 6 of the Act. Section 6 states as follows:-

> "Section 6 - No persons holding vacant land in excess of the ceiling limit immediately before the commencement of this act shall transfer any such land or part thereof by way of sale, mortgage, gift, lease or otherwise until he has furnished a statement under Section 7 and a notification regarding the excess vacant land held by him has been published under sub-section (1) of Section 11; and any such transfer made in contravention of this provision shall be deemed to be null and void."

Hence, the above purchase and the said possession cannot be accepted. Further, the land in the Revenue records was registered only in the name of Government of Tamil Nadu. Notices are issued only in the name of Thiru.Bhoopalan, the Urban Land Owner and cannot be issued in the name of purchaser. The petitioner's vendor and the petitioner herein have locus standi to question the acquisition proceedings, as the purchase itself is not valid.

13. The respondents have further submitted that after acquisition, the possession of the excess vacant land was handed over to the Revenue Authorities on 22.09.1997, making necessary entries in the Village accounts transferring ownership from the Urban Land Owner, Thiru.Bhoopalan to Government. Thus, the lands are registered in the name of the Government since 1997. The registered owner is as registered in the land records of the Revenue Authorities. The claim by the petitioner being a registered owner is false and misleading and the petitioner himself accepts in the same affidavit filed before this Court that his name is not recorded in the revenue records. Further, registration of a sale / purchase document under Registration Act 1908 cannot mean that the purchaser is having title as a registered owner, because his right in the land is only when it is reflected as a registered owner in the Village Accounts or Revenue records of Competent Authority herein. The respondents have further submitted that mere registration of a document by the petitioner cannot mean that the purchaser is having possession of registered land, especially when the claim of possession is not there on the land, reflected in the Village Accounts and not supported by any other documents. All the notices, orders were issued in the name of Thiru.Bhoopalan and were served on the Urban Land owner as follows:

(i) Notice under Section 7(2) of the Act was received by the Urban Land Owner on 30.06.1986.

(ii) Notice under Section 9(4) with draft statement under Section 9(1) of the Act was refused by the Urban Land Owner and hence, served by affixture in the land which is as per Rule 8(2)(c) of the Tamil Nadu Urban Land (Ceiling and Regulation) Rules, 1978.

(iii) Orders under Section 9(5) of the Act served by the registered post with acknowledgment due and acknowledged by Thiru.Bhoopalan on 04.10.1991.

(iv) Final Statement under Section 10(1) of the Act was sent by registered post with acknowledgment due and acknowledged on 06.09.1993 by Tmt.Amsabai.

(v) Notice under Section 11(5) of the Act was issued on 25.09.1996 and sent. Hence, the contention of the petitioner that Rule 8 was violated is without basis and cannot be accepted.

14. The respondents have further submitted that there is no reference in the provisions of the Act about physical possession. In this Act, 'possession' alone was referred. Moreover, possession of all poromboke (Government) lands belonging to the Government is held by making necessary entries in the records of the Government and none can claim

right over it. Likewise, the possession of the acquired land is also by making necessary entries in the Village and Taluk Accounts. In any land transaction, the possession of the land - immovable property would be taken or handed over only by registering documents even by individuals and not by physical possession. It may be seen that from the period unknown, "Government Machinery" has been keeping the possession of Government lands (Poromboke lands, Highways, Flyovers, Sub-ways, Public Wells, Seashore etc.) in records. Anyone can use those lands for a particular period and have physical possession but none can claim any right on it for his / her physical possession of that land for that period or for further period. Likewise, the petitioner has no right to claim for the said lands after possession of it was taken by the Government in 1997 itself. Argument of physical possession, if any, by the petitioner, after publication of Notification under Section 11(3), after issue of 11(5) notice, after making necessary changes in Revenue Accounts and after handing over possession of the lands by the Government in 1997, ought to be treated only as an encroachment of Government land, like in "poromboke" land and it is as an afterthought and not maintainable. The State cannot be treated like an individual because the State has no individual entity to possess the land acquired physically, but the possession by the Government can be indicated through records alone, and due to this alone the lawmakers have not referred about 'physical' possession in this important said Act and the possession of poromboke lands by Government is maintained like this.

15. The respondents have further submitted that the process of possession of the land-immovable property taken or handed over under the Tamil Nadu Urban Land (Ceiling & Regulation) Act 1978, and continuance of the possession by the Government on the basis of entries in Revenue accounts, were accepted, justified and decided as correct in several Judgments of this Court and some of them as follows:-

(i) In the judgment delivered on 14.03.2013 by this Court in W.P.No.759 of 2007 filed by Thiru.Mohamed Aadil Arshi and 4 others vs. The Competent Authority and Assistant Commissioner Urban Land Tax and Land Ceiling, Thiyagaraya Nagar, Chennai-24 observed as follows:-

> "... At any rate, the possession, if any, that would have been secured by the petitioner on the advent of the sale deed in his favour would amount to a possession of a trespasser, since the vesting of the title on the Government became complete the taking possession under Section 11(6), which was done on 30.01.1990, as evidenced by the records available in the file produced for the perusal of the Court. .....Before even the Repeal Act came into force, the possession was taken by the Government thereby the vesting of the title to the

property with the Government was complete. .....The proceeding of the competent authority under the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 came to an end confirming the title on the Government on the date of taking possession of the land ..... the vesting of the property with the Government in this case is confirmed by the exception clause found in Repeal Act. ..... Accordingly, the writ petition is dismissed."

(ii) In another judgment, the Hon'ble Division Bench of this Court rejected the request of the petitioners regarding possession on 12.01.2009 in Writ Appeal cases Nos.3357 to 3378 of 2003 and connected writ petitions and review applications and observed as follows:-

"15. .... even prior to the passing of the repealing Act, the lands in question have been taken possession by the Government and were handed over to the Government Department as early as on 19.03.1998. The learned Judge has taken note of the points urged by the writ petitioners in the writ petitions as well as in the Revenue Applications and found that no interference is warranted in the impugned orders passed by the fourth respondent as well as the impugned orders passed in the writ petitions.

16. We have also independently applied our mind to the entire materials placed on record and find that there is no infirmity or error apparent on the face of the record in the impugned orders passed in the writ petitions. We also find no merits in these writ appeals. Hence, all the writ appeals are dismissed. But, in the circumstances, there will be no order as to costs."

(iii) In another judgment of the Hon'ble Division Bench of this Court in W.A.No.2275 of 2011, dated 15.03.2012 in para 18 and 19 regarding the possession of the acquired land and non-application of Section 4 of the Repeal Act, it was observed as follows:-

"18. All these circumstances would go to show that due to abnormal rise in price of the land nowadays not go only in the vicinity of Chennai but through out the State of Tamil Nadu, the appellants have come forward to file the writ petition assailing the Land Ceiling Proceedings initiated on 18.12.1992 and ended on 04.06.1999 by mala-fide intention and unclean hands to take a chance to get a favourable order from this Court.

19. Both the question of facts and the position of law, the writ petition filed by the appellants

cannot be maintained ..... a perusal of the records give a clear indication that the competent authority has conducted proceedings strictly in accordance with provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act. The possession of the property was also taken and it was handed over to the Revenue Department as early as on 04.06.1999. Therefore, as on the date on which the Repeal Act came into force, there was no proceedings pending before the statutory authorities so as to grant the relief prayed for by the appellants / writ petitioners ..... Accordingly, the writ appeal is dismissed with costs."

(iv) The respondents have further submitted that the issue as to whether a person who purchased property after the cutoff date and the sale being void under Section 6 could take such a contention pertaining to possession was considered by the Hon'ble Division Bench of this Court in S.Bala Subramaniam and another Vs. Special Commissioner and Commissioner of Land Reforms, Chennai and another reported in 2009(8) MLJ 529.

In the judgment of this Court, on 23.12.2009, the Court dismissed the writ petition in W.P.No.21355 of 2000 filed by Thiru.K.Jayachandran Vs. The Special Commissioner and Revenue Secretary to Government and two others and it was observed as follows:-

"The petitioner cannot be said to be a person in possession of the property as the sale in his favour was a void transaction. Therefore, the petitioner would not come under the term "person in possession". Law recognizes only legal possession....."

(v) In the judgment given by the Hon'ble Supreme Court in Civil Appeal No.492 of 2007 filed by Sulochana Chandrakant Galanda Vs. Pune Municipal Transport and others, it has been observed as follows:-

"24. If some person has taken a relief from the Court by filing a writ petition immediately after the cause of action had arisen, petitioners cannot take the benefit thereof resorting to legal proceedings belatedly. They cannot take any benefit thereof at such a belated stage for the reason that they cannot be permitted to take the impetus of the order passed at the behest of some diligent person.

34. The aforesaid factual position makes it clear that the appellant is not entitled for any relief whatsoever as per law, as it exists today.

The land once vested in the State cannot be divested. Once the land is vested in the State it has a right to change the user. The appellant cannot be heard raising grievance on either of these issues.

35. Thus, in view of the above, the appeal lacks merit and is accordingly dismissed. No order as to costs."

16. The respondents have further submitted that the acquisition proceeding was unchallenged till date by the Urban Land Owner, Thiru.Bhoopalan and also by the petitioner's vendor. In spite of knowing about the acquisition, the Urban Land Owner, Thiru.Bhoopalan accepting the acquisition proceedings did not file any objections or appeal. Later, the petitioner's vendor Tvl.Thirupurasundari in spite of knowing about the acquisition did not question the acquisition, although enquiry notice was sent by the Assistant Commissioner, Urban Land Tax, Mylapore on 19.02.2001.Hence, the Assistant Commissioner had taken action as per the procedure which cannot be found fault after 18 years. Further, the petitioner being a purchaser do not have locus standi to question the acquisition proceedings. After completing the formalities as laid down in the Act, the land was acquired and possession was handed over to Revenue Authorities on 22.09.1997, which is well before the introduction of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act 1999 (Act 20/99) (hereinafter called as the Repeal Act) and the above acquisition is saved under Section 3(1) (a) of the Act. As the acquisition proceedings attained a finality well before the Repeal Act, Section 4 of the Repeal Act shall not be applicable to this case. Section 4 states as follows:-

"4. All proceedings relating to any order made or purported to be made under the Principal Act pending immediately before the commencement of this Act, before any Court, Tribunal or any authority shall abate:

Provided that this section shall not apply to the proceedings relating to Sections 12, 13, 14, 15, 15-B and 16 of the Principal Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorized by the State Government in this behalf or by the compete authority"

17. The respondents have further submitted that before acquiring the orders, notices, were served on the Urban Land Owner, Thiru.Bhoopalan, who appeared and gave statement before the Assistant Commissioner on 15.11.1988. In spite of knowing about the acquisition and accepting the acquisition he did not prefer to file appeal or objection before appropriate

authorities. Therefore, the subsequent purchasers viz., the petitioner and petitioner's vendor were not issued notices. Before acquiring the notifications under Section 11(1) of the Act was published in the Tamil Nadu Government Gazette on 08.11.1995 for the persons interested in the land. But, neither the petitioner nor the petitioner's vendor filed objections or represented themselves as interested persons before the Assistant Commissioner. Hence, in the absence of any objections further action was proceeded. Later, notification under Section 11(3) of the Act was published in Tamil Nadu Government Gazette on 21.02.1996 vesting the land with Government with effect from 13.02.1996 free from all encumbrances. Thus, it may be seen that acquisition has been completed as per the procedure without any irregularities and the petitioner is trying to give life to a dead proceedings. Hence, the respondents entreated the Court to dismiss the above writ petition.

18. The learned counsel appearing for the petitioner has submitted that the petitioner has purchased the subject land, comprised in Survey No.211/7A (Part), situated at Thiruvanmiyur, measuring about 3.52 Grounds, from Praba Kannan, under a registered Sale Deed. Initially, the subject land has fallen under a suit for partition in C.S.No.58 of 1989, on the file of this Court. The said suit had been compromised between the parties subsequently. In such circumstances, the second respondent passed an order, dated 29.08.1991, stating that the excess land to an extent of 1450 sq.meters had been acquired after allowing 500 sq.meters to the erstwhile vendor. Actually, the land to an extent of 1950 sq.meters stood in the name of T.R.Seshachalam and his brother Boopalan. The family details had also been submitted before the second respondent at the time of enquiry. From the date of purchase, the petitioner is in possession and enjoyment of the subject land. The relevant records, including Patta, stand in the name of erstwhile vendor. The second respondent, without scrutinizing the relevant documents, passed the order, dated 29.08.1991.

19. Further, the learned counsel has submitted that the second respondent has not issued any notice before acquiring the subject land. The erstwhile vendor had not furnished the details of his family entitlement and as such the second respondent's order, dated 29.08.1991, is not valid. As of now, the petitioner is in possession and enjoyment of the subject land. After the petitioner came to know about the order, dated 29.08.1991, he had approached the second respondent and sought relief available under Section 4 of the Repeal Act, 29 of 1999. Further, the petitioner has not received any notice from the second respondent with regard to delivery of possession. Therefore, the order, dated

29.08.1991 is not fit to be operated upon any further. Hence, the learned counsel has entreated the Court to set aside order, dated 29.08.1991, passed by the second respondent. Further, the Judgment and Decree, dated 13.08.1993, made in C.S.No.58 of 1989 by this Court, is in existence. Therefore, the second respondent's proceedings are not valid, besides it runs against the Civil Court decree.

20. The learned Government Advocate appearing for the respondents has submitted that the purchase of excess vacant land is not valid, since at the time of alienation i.e. 25.11.2011, the erstwhile vendor of the subject land did not possess any marketable title deed and as such the said alienation is null and void. Therefore, the writ petitioner has no locus standi to question the acquisition proceedings, which has attained finality, and hence the writ petition is not maintainable. All the connected records for the subject land stand in the name of Government. The subject land has been acquired after serving notice on the land owners and hence there is no shortcoming for acquiring the subject land. The land owner had not filed return under Section 7(1) of the Act. The Inspector attached to the Survey Department had inspected the premises and found it vacant. At the time of acquiring the subject land, after duly serving notice, the erstwhile landowner Boopalan had appeared before the second respondent, on 15.11.1988, and furnished the details of his family entitlement and then the order, dated 19.08.1991, has been passed on merits. Compensation amount has also been deposited under revenue deposit. Hence, for all these reasons, the learned Government Advocate has entreated this Court to dismiss the writ petition.

21. On considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the second respondent had initiated the acquisition proceedings under the Tamil Nadu Urban Land Ceiling Act, 1978 against the erstwhile owner of the subject land during 1985. The said proceedings had been completed on 29.08.1991. The petitioner had purchased the subject land, on 25.11.2011, from Praba Kannan, who did not possess any valid title deed to alienate the subject land in favour of the petitioner that too after a lapse of 24 years. In such circumstances, the writ petition does not generate sufficient force to allow it and hence the same is liable to be dismissed.

22. In the result, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

r n s / krk

To

1.The Special Commissioner
and Commissioner Urban Land Ceiling and
Urban Land Tax,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The Assistant Commissioner
for Urban Land Tax,
Mylapore,
Tamil Nadu Slum Clearance Board Building,
R.K.Mutt Road, Mandaveli,
Chennai-600 028.

3.The Tahsildar,
Thiruvanmiyur Mylapore Taluk
at Raja Annamalaipuram,
Chennai-600 028.

+1 cc to Mr.A.Ramu, Advcoate, sr.2821

W.P.No.6133 of 2015
and
M.P.Nos.1 and 2 of 2015

scd co
kra 02.02.2016