

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:23.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WA.No.1003/2017 & CMP.No.14085/2017

1. The State of Tamil Nadu
rep.by its Secretary
Revenue Department
St George Fort
Chennai 600 009.
 2. The Principal Commissioner and
Commissioner of Land Reforms
Chepauk, Chennai 600 005.
 3. The Competent Authority
constituted under the Urban and Land
Ceiling Act, T.Nagar at Chennai 17.
 4. The Tahsildar
Mambalam-Guindy Taluk
Near Kasi Theatre
Ashok Nagar, Chennai 600 073.
 5. The Tahsildar
Velachery Taluk
No.113, V.V.Koil Street
Tharamani Looft Road,
Chennai 600 042.
- .. Appellants / Respondents

Vs

K.Mallaiyan

.. Respondent

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 07.04.2016 made in WP.No.13185/2016.

Prayer in WP.13185 of 2016:-

Petition filed under Article 226 of the Constitution of
India praying to issue a writ of Declaration Declaring that
the land comprised in Survey Nos.649 bearing Plot Nos.12

measuring 2820sq.ft. Situated at V.O.C. Nagar of Velachery Village, Chennai belonging to the petitioner does not attract the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 in view of Section 3(1)(a) of the Urban Land (Ceiling and Regulation) Repeal Act 1999 and in light of order passed in WP.No.10637 of 2006 dated 18.07.2007 and thus render justice.

For Appellants : Mr.R.Vijayakumar, AGP

For Respondent : Mr.E.Vijay Anand

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.]

The official respondents in WP.No.13185/2016 are the appellants herein and aggrieved by the impugned order dated 07.04.2016 made in the said writ petition filed by the respondent herein / writ petitioner, in and by which, the Urban Land proceedings initiated in respect of the land declared to have been lapsed, in the light of section 3[1][a] of the Urban Land [Ceiling and Regulation] Repeal Act, 1999, the present writ appeal has been filed.

2. Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the appellants / official respondents in the writ petition, has invited the attention of this Court to the judgment reported in 2007 [4] LW 361 : 2007 [6] MLJ 1279 [S.Sivapuramam and 2 others V. The State of Tamil Nadu rep.by its Secretary, Revenue Department, St George Fort, Chennai 600 009 and 3 others] [Single Bench], and would submit that as per the said order, the declaration under the above said Repealing Act came to be passed in favour of the land owners in respect of the lands comprised in S.Nos.649, 18, 19, 25, bearing Plot Nos.13 to 16, 27, 28,31 and 32, admeasuring to an extent of 17790 sq.ft., situate at V.O.C. Nagar, Velachery Village and challenging the legality of the said order, the writ appeal has been filed with a petition for condonation of delay and would further add that the learned Judge merely followed the said order in allowing the writ petition filed by the respondent herein, without taking note of the fact that the actual physical possession of the land has been taken and hence, prays for interference.

3. Mr.E.Vijay Anand, learned counsel appearing for the respondent / writ petitioner would submit that the petitioner is the owner of the land bearing Plot No.12, in S.No.649,

V.O.C.Nagar, Velachery Village, admeasuring to an extent of 2820 sq.ft., and admittedly, as per the above cited decision, the Urban land proceedings initiated in respect of the adjacent plots in the very same survey number, declared to have been lapsed and in the absence of challenge to the said order dated 18.07.2007, the learned Judge has rightly reached the conclusion that the Repeal Act would have application to the land belonging to the writ petitioner / respondent herein and hence, prays for dismissal of the writ appeal.

4. This Court has considered the rival submissions and also perused the materials placed before this Court.

5. A Single Bench of this Court in the decision reported in 2007 [4] LW 361 [cited supra], after going through the files, had found that there are no other record to show that the owner of the property had handed over the physical possession to the respondents therein and taken either from the petitioners or from their vendor in conformity with section 11[6] of the Principal Act and also placed reliance upon the earlier decisions rendered by this Court reported in 2002 [2] CTC 716 [Allind Metal Fabricators Pvt. Ltd., Madras V. The Secretary to Government, Revenue Department, Government of Tamil Nadu, Madras] as well as the decision rendered by the Hon'ble Apex Court of India reported in JT 2000 [Suppl.1] SC 295 [Smt.Angoori Devi V. State of U.P. and others] and found that the petitioners therein continue to be in physical possession in the property in dispute and therefore, the Repealing Act would come to their aid and allowed the writ petition. It is pertinent to point out at this juncture that the said decision came to be rendered as early as on 18.07.2007 and it is the submission of the learned Additional Government Pleader appearing for the appellants/official respondents that challenge is being made to the said order nearly after 11 years from the date of the said decision.

6. This Court is of the considered view that in respect of the lands located in the very same survey number, the Single Bench of this Court, in the above cited decision has held that the proceedings initiated under the Urban Land Ceiling Act deemed to have been lapsed in the light of the Repealing Act, 1999. Admittedly, the land of the writ petitioner / respondent herein is located in the very same survey number, viz., S.No.649, bearing Plot No.12 and as such, he is entitled to the benefit and the learned Judge has rightly reached the conclusion.

7. This Court, on an independent application of mind to the entire materials, is of the considered view that there is no error apparent or infirmity in the reason assigned by the learned Single Judge in allowing the writ petition and finds no

merit in the writ appeal.

8. In the result, the writ appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Secretary, State of Tamil Nadu,
Revenue Department
St George Fort, Chennai 600 009.
2. The Principal Commissioner and
Commissioner of Land Reforms
Chepauk, Chennai 600 005.
3. The Competent Authority
constituted under the Urban and Land
Ceiling Act, T.Nagar at Chennai 17.
4. The Tahsildar
Mambalam-Guindy Taluk
Near Kasi Theatre,
Ashok Nagar, Chennai 600 073.
5. The Tahsildar
Velachery Taluk
No.113, V.V.Koil Street
Tharamani Looft Road,
Chennai 600 042.

+1cc to Mr.E.Vijay Anand, Advocate, S.R.No.60501

WA.No.1003/2017

RK(CO)
CS/12/09/17