

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.11804 of 2004

R.Purushothaman
Rep. by his Power Agent
S.Dharmaraj

...Petitioner

The Assistant Commissioner
(Land Reforms),
Urban Land Ceiling,
Tiruchirappalli

Vs

.... Respondent

Prayer : Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records relating to the proceedings of the respondent dated 31.03.2003 made in Na.Ka.m8.43/2003 and quash the same.

For Petitioner : M/s.K.Radhakrishnan
For Respondent : Mr.N.Srinivasan, AGP

O R D E R

The petitioner has filed this petition to call for the records relating to the proceedings of the respondent dated 31.03.2003 made in Na.Ka.m8.43/2003 and quash the same.

2. According to the petitioner, he is in possession of a land to an extent of 6400 sq.mts. in Survey No.125/1 of Kattupattu Village, Trichy District, which was declared as excess, as per the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 (hereinafter called as 1978 Act) and followed by publication of Notification under Section 11(3) of the 1978 Act and proceedings have been initiated for acquisition and the compensation was also determined. However, the petitioner was in continuous possession of the land ever since a declaration was made and the respondent has not taken possession of the land. It is also stated that the Tamil Nadu Urban Land (Ceiling & Regulation) Act has been repealed by the Act 20 of 1999. It is stated that any land deemed to vest in the State Government under sub-section (3) of the Section 11 of the Principal Act, possession of, which has not been taken over by the State Government or any person duly authorised by the State Government

in that behalf or by the competent authority. According to the petitioner, under Section 4 of the Repeal Act 20 of 1999, property vest with the petitioner and the respondent has not taken steps to acquire the same as per Section 11 (3) of 1978 Act and no steps have also been initiated under Section 11 (5) or 11 (6) of the 1978 Act.

3. However, it is admitted in the counter filed by the respondent in paragraph 2 that the possession of land has not been taken, though they have published a Notification under Section 11 (3) of the 1978 Act, wherein the land held by the petitioner was declared excess. Further, in the counter, it is stated that initially, the land was sought to be acquired and that the petitioner was directed to accept the compensation and thereafter, the petitioner was asked to pay a sum of Rs.1,022/-, which the petitioner has also paid and hence, the respondent dropped the earlier proceedings, by an order dated 11.02.2003. Later, some irregularities were noticed and hence, by an order dated 31.03.2003, which is impugned in this writ petition, the earlier order dated 11.02.2003 was cancelled. While making mutation in the Revenue Records, it was found that 3,200 sq.mts. of land out of 6,400 sq.mts. of land was allotted to the Social Welfare Department in G.O.No.1688 of 1988. It is also stated that possession has not been taken.

4. The petitioner has therefore filed this writ petition and Interim Injunction was granted on 28.04.2004 and during the pendency of the writ petition, the injunction was made absolute on 07.08.2006 and at no point of time, steps have been taken under Section 11 (5) or 11 (6) of the 1978 Act. Admittedly, the petitioner is in possession of the land in question.

5. In view of the fact that the possession has not yet been taken by the respondent, I find that there is much force in the contention of the petitioner and hence the impugned order is set aside. The contention that nothing prevented the Government from retaining such portion of the surplus land acquired by the Government for the benefit of the public in future, cannot be a ground to reject the relief sought for by the petitioner.

6. Hence, the writ petition is allowed and the impugned order is set aside. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

pvs

To

The Assistant Commissioner
(Land Reforms),
Urban Land Ceiling,
Tiruchirappali

+lcc to Mr.K.Radhakrishnan, Advocate, S.R.No.74470

W.P.No.11804 of 2004

RK(CO)
GN(21/11/2017)



WEB COPY