

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A NO.219 OF 2016 AND
CMP NO.3263 OF 2016

A.R.Annapurani Achi (deceased)

1.A.R.Ramanathan

2.A.R.Kasi Viswanathan

3.Ar.Murugappan

...Appellants

Vs

The Assistant Commissioner (Competent Authority)

Urban Land (Ceiling and Regulation)

Ambattur, Chennai - 600 053.

...Respondent

Prayer:- Writ Appeal filed under clause 15 of Letters Patent,
against the order made in W.P.No.44719 of 2002 dated 25.04.2014.

W.P.No.44719 of 2002:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order dated 13.2.2001 Ref.ROC:611/98-C signed by the respondent authority on 11.2.2002 fixing the compensation payable in respect of the land comprised in R.S.No.35 New S.Nos.35/4A1A1C and 35/4A1A1E Oragadam Village Ambattur taluk at Rs.19,500/- and consequently direct the respondent authority to drop all proceedings initiated as against the petitioner and her co-owners in respect of the said lands by following the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act 1999.

For Appellant : Mr.A.R.Karunakaran

For Respondents : Mr.V.Anandamoorthy

Special Govt.Pleader (AS)

J U D G M E N T

K.K. SASIDHARAN, J.

The appellants filed a writ petition in W.P.No.44719 of 2002 challenging the order dated 13 February, 2001 on the file of the competent authority, Urban Land (Ceiling Regulation), Chennai and after quashing the said order to drop all further

proceedings initiated against them by following the provisions of Tamil Nadu Urban Land (Ceiling Regulation) Repeal Act, 1999.

2. The respondent initiated proceedings against the predecessor-in-interest of the appellants under the provisions of Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. The Competent Authority after considering the explanation submitted by the land owner determined the excess land. The land owner filed appeal before the Appellate Authority. The Appellate Authority upheld the order passed by the competent authority with a finding that the transfer of excess land to the Trust constituted by the land owner was void.

3. The respondent published the notification in government gazette and thereafter, took possession of the land from the legal heirs of Late Meenakshi Arunachalam. The appellants, after notifying the Tamil Nadu Urban Land (Ceiling Regulation) Repeal Act, 1999, initiated the writ petition in W.P.No.44719 of 2002 primarily on the ground that possession was not taken and as such, entire proceedings would lapse.

4. The writ petition was dismissed by the learned single Judge with an observation that possession was taken even before the introduction of Act 20 of 1999. Feeling aggrieved by the dismissal of the writ petition, the appellants have come up with this intra court appeal.

5. The learned counsel for the appellants contended that the appellants are still in possession of the land and as such, it was not correct to state that the possession of the land was taken on 5 November, 1993.

6. The learned Special Government Pleader produced a copy of the Land Delivery Receipt dated 5 November, 1993 and submitted that the land owner surrendered vacant possession, pursuant to the final statement dated 26 July 1990 issued under Section 10 (1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 and as such, there was no proceedings pending as on the date on which the Repeal Act was notified.

7. The only question that arises for consideration is as to whether any proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 was pending as on the date on which Tamil Nadu Urban Land (Ceiling Regulation) Repeal Act, 1999 was notified.

8. There is no dispute with regard to the proceedings initiated by the competent authority under the provisions of Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. The competent authority after publishing the final statement on 26

July, 1990, by notice dated 28 September, 1993, called upon the land owner to deliver vacant possession of the excess land. The land delivery receipt dated 5 November, 1993 signed by the land owner clearly proved that the excess land was surrendered to the competent authority. There is a clear admission in the representation dated 23.11.2000 submitted by the land owner to the Special Commissioner that the possession of the land was handed over on 5 November, 1993. The appellants, who floated a Trust wanted the Special Commissioner for allotment of the land to the Trust, as its object is charitable in nature.

9. The learned counsel for the appellants fairly submitted that the land delivery receipt was issued by the land owner on 5 November, 1993. According to the learned counsel, even after handing over possession, there was no action taken by the respondent to pay the compensation.

10. The appellants initiated writ petition on the premise that they were in possession of the property as on the date on which Tamil Nadu Urban Land (Ceiling Regulation) Repeal Act, 1999 was notified. There is absolutely no merit in the said contention, in view of the land delivery receipt dated 5 November, 1993. We are therefore of the view that the learned single Judge was correct in dismissing the writ petition filed by the appellants.

11. In the up shot, we dismiss the intra court appeal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

svki

To

The Assistant Commissioner (Competent Authority)
Urban Land (Ceiling and Regulation)
Ambattur, Chennai - 600 053.

+2ccs to Mr.A.R.Karunakaran, Advocate, S.R.No.72436

W.A No.219 of 2016

SS(CO)
CS/13/11/17