



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 05.07.2019

CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.(MD)No.1436 of 2016

and

C.M.P.(MD) No.10926 of 2016

Against

WP(MD)No.11637 of 2005

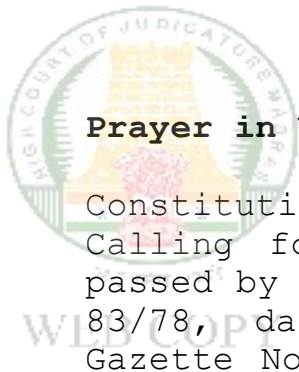
- 1) The State of Tamil Nadu,
Rep., by its Secretary to Government,
Revenue Department,
Fort St.George,
Madras 600 009
- 2) The Principal Commissioner and
Commissioner of Land Reforms,
Chepauk, Madras - 600 005
- 3) The Assistant Commissioner of
Urban Land Tax and Competent
Authority of Urban Land Ceiling,
Tirunelveli Area at Tirunelveli.
- 4) The Tahsildar,
Palayamkottai Taluk at
Palayamkottai,
Tirunelveli District. ... Appellants/ Respondents

vs.

- 1) S.Basheer Ahamed,
rep. by his Power Agent Abdul Khader,
S/o Syed Mohammed Buhari,
No.132, Alapillai Street, Melapalayam,
Tirunelveli. ... Respondent/ Petitioner
- 2) A.Jeyaraj ... 2nd Respondent

- R-2 is impleaded as 2nd respondent as per order dated 18.02.2019 in C.M.P(MD) No.1035 of 2019.

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order dated 25.02.2011 made in W.P.(MD) Nos.11637



Prayer in WP(MD) . 11637/ 2005 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court a WRIT OF CERTIORARI Calling for the entire records relating to the impugned order passed by the 3rd respondent in his notification No.A2/7872/89SRA. 83/78, dated 8.10.1991 published in the Tamilnadu Government Gazette No. PART -VI, Sec.I, dated 27.11.1991 on the file of the 2nd respondent and quash the same and pass such further or toher orders as this Honourable court may deem fit

For Petitioners : Mr.V.R.Shanmuganthan,
Special Government Pleader

For R1 : Mr.T.A.Ebenezer

For R2 : Mr.T.S.R.Venkataraman

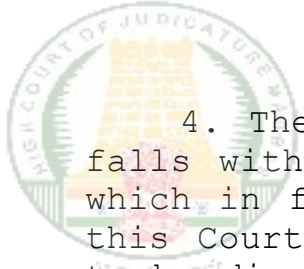
J U D G M E N T

(Judgment of this Court was made by **K.RAVICHANDRABAABU, J.**)

This Writ Appeal is directed against the order passed in W.P. (MD) No.11637 of 2005 dated 25.02.2011 wherein and whereby the Writ Court disposed the writ petition by holding that in view of Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999, which says that legal proceedings are abated, nothing survives for adjudication in this matter.

2. The Writ Court pointed out that 'take over' of the possession is complete only when it is signed by the land owner in the Land Delivery Receipt while delivering the excess land pursuant to notice as per Section 11(5) of Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 and that the 'take over' ought to be established by getting the signature from the independent witnesses and by preparing panchanama etc. The further observations made therein is that the possession in paper is not a complete take over of possession.

3. The very same issue was already considered by this Bench in a recent order made in W.A.(MD) Nos.511 to 521 of 2019 dated 12.06.2019 wherein it was held that mere symbolic possession cannot be considered as a real physical possession and therefore, the possession certificate unilaterally signed by the revenue officials cannot come to the rescue of the authority to contend it as a physical possession.



4. The present facts and circumstances of this case squarely falls within the principles laid down in the above said decision which in fact is rendered following the earlier orders passed by this Court. Accordingly, we find that this Writ Appeal is liable to be dismissed in the light of the order already passed in W.A. (MD) Nos.511 to 521 of 2019 dated 12.06.2019. Thus, the Writ Appeal is dismissed. No costs. Consequently, connected C.M.P.(MD) No.10926 of 2016 is closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

To

1) The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Madras 600 009.

2) The Principal Commissioner and
Commissioner of Land Reforms,
Chepauk, Madras - 600 005.

3) The Assistant Commissioner of
Urban Land Tax and Competent
Authority of Urban Land Ceiling,
Tirunelveli Area at Tirunelveli.

4) The Tahsildar,
Palayamkottai Taluk at
Palayamkottai,
Tirunelveli District.

+1 CC to Mr.T.S.R.VENKAT RAMANA, Advocate SR-73810.

+1 CC to SPL GP SR-73928.

Judgment made in
W.A. (MD) No.1436 of 2016

Dated:
05.07.2019

CS (19.07.2019) 3P 7C