

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.1.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.7188 of 2016

AND

WMP.Nos.6379 & 6380 of 2016

1.K.Parimala

2.P.Gomathi

...Petitioners

Vs.

1.The Director, Urban Land Ceiling  
& Urban Land Tax, Chennai-5.

2.The Assistant Commissioner-cum-  
Competent Authority, Urban Land  
Ceiling, Salem.

3.The Assistant Commissioner-cum-  
Competent Authority, Jawan Bhavan,  
2nd Floor, Urban Land Ceiling, Erode.

4.The Tahsildar, Salem West,  
Salem.

...Respondents

PETITION under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified mandamus to call for the entire records in S.R.No.A1/20/93 dated 28.2.1994 from the file of the 2nd respondent, quash the same so far as the petitioners are concerned and forebear the respondents from interfering with the petitioners' peaceful possession and enjoyment of the lands measuring an extent of 1,540 sq.ft. in Survey Nos. 157/1P and 157/1R, Sivadhapuram Village, Salem Taluk and District.

For Petitioners : Mr.D.Shivakumaran

For Respondents : Mrs.A.Sri Jayanthi, SGP

ORDER

Heard Mr.D.Shivakumaran, learned counsel appearing for the petitioners and Mrs.A.Sri Jayanthi, learned Special Government Pleader, appearing for the respondents.

2. The petitioners seek to quash the order passed by the second respondent dated 28.2.1994 as far as the petitioners are concerned and consequently forebear the respondents from interfering with their peaceful possession and enjoyment of the lands measuring an extent of 1540 sq.ft. in Survey Nos.157/1P and 157/1R, Sivadhapuram Village, Salem Taluk and District.

3. The petitioners' case is that the lands in question were purchased by their mother vide sale deed dated 10.9.1986 and after her demise, the petitioners inherited the same. They were covered in the total extent of property measuring 19,306 sq.mtrs out of 22,306 sq.meters and were the subject matter of proceedings under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. The said acquisition proceedings were quashed by this Court by an order dated 07.6.2011 in W.P.Nos.8610 to 8612 of 2004.

4. The learned Special Government Pleader appearing for the respondents has submitted that the present writ petition is also covered by the decision rendered in the earlier writ petitions.

5. For better appreciation, the operative portion of the order passed in W.P.Nos.8610 to 8612 of 2004, is quoted herein below:

"10. Mr.D.Shivakumaran, learned counsel for the petitioners submitted that the issue raised in these writ petitions is squarely covered by a judgment of this Court in Prathiba Venkataraman Vs. The Assistant Commissioner and another reported in CDJ 2009 MHC 468 (W.P.No.6931 of 2000) dated 27.01.2009. This is for the purpose of relying upon the finding that if no notice is given to the original land owner or the person in whose name land stands in the records, then the proceedings are invalid. Even otherwise, the issue raised in these writ petitions viz., that no proper notice was given under Section 9(5) of the Act and the lands were agricultural land and hence not covered by the provisions of the ULC Act and that after the repealing Act, if possession continues to vest with the land owner and not taken by the Government, then the land owners are entitled for benefit under Section 4 of T.N.Act 20 of 1999. In this regard, a reference may be made to the judgment of this Court in G.P.Saraswathi and

others v. Assistant Commissioner cum Competent Authority reported in (2010) 8 MLJ 449. In that case, this court dealt with the scope of the peaceful possession being taken and referred to the judgment of various decisions of the Supreme Court. It was held that if possession is not taken, then repealing Act will enure to the benefit of the land owners."

6. Thus, following the above order, as the lands in question are also covered in the total extent of property, the acquisition of which was quashed by this Court, this writ petition is allowed as prayed for and the impugned order is set aside. No costs. Consequently, the connected WMPs are closed.

Sd/-  
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Director,  
Urban Land Ceiling & Urban Land Tax, Chennai-5.
- 2.The Assistant Commissioner-cum-Competent Authority,  
Urban Land Ceiling, Salem.
- 3.The Assistant Commissioner-cum-Competent Authority,  
Jawan Bhavan, 2nd Floor, Urban Land Ceiling, Erode.
- 4.The Tahsildar, Salem West, Salem.

+1 cc to M/s.D.Shivakumaran,Advocate Sr.No.6070  
+1 cc to The Government Pleader Sr.No. 6689

AKM/26.02.2020/3P-7 C /

WEB COPY

W.P.No.7188 of 2016 &  
WP.Nos.6379 & 6380 of 2016