



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.11690 to 11694, 12307, 12230, 36066 to 36068 and 40227
of 2006

and

W.P.M.P.No.13809 and M.P.Nos.1, 1, 1, 1, 2, 2, 2 and 2 of 2006

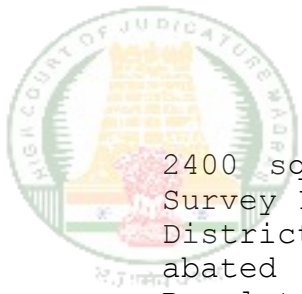
M.RAVI	... PETITIONER in WP No.11690 of 2006
DR.K.NARASIMHAN	... PETITIONER in WP No.11691 of 2006
MR.V.M.THARANI	... PETITIONER in WP No.11692 of 2006
A.KANAKADOSS	... PETITIONER in WP No.11693 of 2006
MRS.T.LAKSHMI	... PETITIONER in WP No.11694 of 2006
M. A. DHANAPALAN	... PETITIONER in WP No.12307 of 2006
A. RAJAPPAN	... PETITIONER in WP No.12230 of 2006
V.PADMA PRIYA	... PETITIONER in WP No.36066 of 2006
M.DEVARAJ	... PETITIONER in WP No.36067 of 2006
K. RAJAGOPAL	... PETITIONER in WP No.36068 of 2006
S.GOPAL	... PETITIONER in WP No.40227 of 2006

Vs

1. The Principal Commissioner &
Commissioner of Land Reforms,
Chepauk, Chennai - 5.
 2. The Assistant Commissioner/
Competent Authority (Urban Land Ceiling),
Sannadhi Street,
Poonammllee,
Chennai - 600 056.
 3. The Tahsildhar,
Poonamallee Taluk,
Poonamallee.
- ... Respondents in all WPs

Prayer in WP.NO.11690 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents, especially the order of the second respondent dated 31.01.1992 under Section 9(5), vide Na.Ka.3731/91/D and Notice dated 10.02.1993, vide Rc.3731/91/A under Section 11(5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect of land measuring



2400 sq.ft bearing Plot No.7 of Shanmuga Nagar, comprised in Survey No.36/9 of Noombal Village, Poonamallee Taluk, Tiruvallur District, and quash the same, and treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act, (Act 20 of 1999), so as to enable the third respondent, to incorporate the name of the petitioner as owner of the land measuring 2400 sq.ft in the said Survey Number 36/9 of Noombal Village.

Prayer in WP.NO.11691 of 2006:

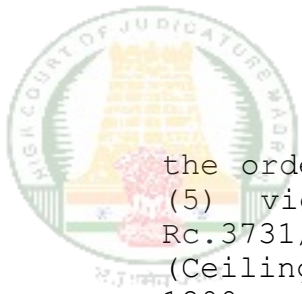
Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents, especially the order of the 2nd respondent dated 31.01.1992 under section 9 (5) vide Na.Ka.3731/91/D and Notice dated 10.02.1993 vide Rc.3731/91/A under section 11 (5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect of land measuring 2400 sq.ft. bearing Plot No.30 of Shanmuga Nagar, comprised in Survey No.36/8 and 36/9 of Noombal Village, Poonamallee Taluk, Tiruvallur District, and quash the same, and treat the proceedings as abated under section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act, (Act 20 of 1999), so as to enable the third respondent, to incorporate the name of the petitioner as owner of the land measuring 2400 sq.ft in the said Survey Number 36/8 and 36/9 of Noombal Village.

Prayer in WP No.11692 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents, especially the order of the 2nd respondent dated 31.01.1992 under section 9 (5) vide Na.Ka.3731/91/D and Notice dated 10.02.1993 vide Rc.3731/91/A under section 11 (5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect of land measuring 2400 sq.ft. bearing Plot No.27 of Shanmuga Nagar, comprised in Survey No.36/8 and 36/9 of Noombal Village, Poonamallee Taluk, Tiruvallur District, and quash the same, and treat the proceedings as abated under section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act, (Act 20 of 1999), so as to enable the third respondent, to incorporate the name of the petitioner as owner of the land measuring 2400 sq.ft in the said Survey Number 36/8 and 36/9 of Noombal Village.

Prayer in WP No.11693 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents, especially



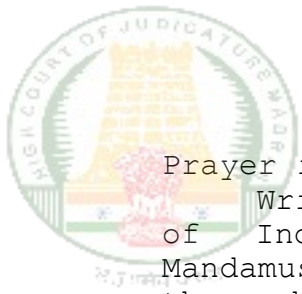
the order of the 2nd respondent dated 31.01.1992 under section 9 (5) vide Na.Ka.3731/91/D and Notice dated 10.02.1993 vide Rc.3731/91/A under section 11 (5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect of land measuring 1200 sq.ft. bearing Plot No.28 of Shanmuga Nagar, comprised in Survey No.36/8 and 36/9 of Noombal Village, Poonamallee Taluk, Tiruvallur District, and quash the same, and treat the proceedings as abated under section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act, (Act 20 of 1999), so as to enable the third respondent, to incorporate the name of the petitioner as owner of the land measuring 1200 sq.ft in the said Survey Number 36/8 and 36/9 of Noombal Village.

Prayer in WP No.11694 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents, especially the order of the 2nd respondent dated 31.01.1992 under section 9 (5) vide Na.Ka.3731/91/D and Notice dated 10.02.1993 vide Rc.3731/91/A under section 11 (5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect of land measuring 2940 sq.ft. bearing Plot No.33 of Shanmuga Nagar, comprised in Survey No.36/8 and 36/9 of Noombal Village, Poonamallee Taluk, Tiruvallur District, and quash the same, and treat the proceedings as abated under section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act, (Act 20 of 1999), so as to enable the third respondent, to incorporate the name of the petitioner as owner of the land measuring 2940 sq.ft in the said Survey Number 36/8 and 36/9 of Noombal Village.

Prayer in WP No.12307 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents, especially the order of the 2nd respondent dated 31.1.1992 under section 9(5) vide Na.Ka. 3731/9/D and Notice dated 10.02.1993 vide Rc3731/91 A under section 11 (5) of the Tamilnadu Urban Land (Ciling & Regulation) ACT 1978 in respect of land in survey No. 36/9 plots No. 16 & 17 shanmuga Nagar measuring 2400 sq. ft and 2175 sq. ft of Noombai village, poonamallee taluk, tiruvallu district and quash the same and treat the proceedings as abated under section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act, (Act 20 of 1999), so as to enable the third respondent, to correct the enteries showing the name of the petitioner as owner of the plots No. 16 & 17 shanmuga Nagar comprised in Survey Number 36/9 of Noombal Village.



Prayer in WP No.12230 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents, especially the order of the 2nd respondent dated 31.1.1992 under Section 9 (5) vide Na.Ka.3731/91/D and Notice dated 10.2.1993 vide 3731/91/A under Section 11(5) of the Tamilnadu Urban Land (Ceiling and regulation) Act, 1978 in respect of land measuring 5250 sq.ft. bearing Plot Nos.18, 19, 20 of Shanmuga Nagar, comprised in Survey Nos.36/8 and 36/9 of Noombal Village, Poonamallee Taluk, Tiruvallur District, and quash the same, and treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) so as to enable the third respondent, to incorporate the name of the petitioner as owner of the land measuring 5250 sq.ft in the said Survey Number 36/8 and 36/9 of Noombal Village.

Prayer in WP No.36066 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records of the respondent especially the order of the 2nd respondent dated 31.01.1992 under section 9 (5) Vide Na.Ka.3731/91/D and Notice dated 10.02.1993 vide Rc.3731/91/A, under Section 11(5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, in respect of lands in Survey No.36/9, measuring 6200 sq.mts of Noombal Village, Poonamallee Taluk, Tiruvallur District and quash the same and treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act so as to enable the third respondent, to correct the enteries showing the name of the petitioner as owner of the land in their records showing the name of the Petitioner as owner of the land in Survey Number 36/9 of Noombal Village.

Prayer in WP No.36067 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records of the respondent especially the order of the 2nd respondent dated 31.01.1992 under section 9 (5) Vide Na.Ka.3731/91/D and Notice dated 10.02.1993 vide Rc.3731/91/A, under Section 11(5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, in respect of land measuring 2400 sq.mts bearing Plot No.7 of Shanmuga Nagar, comprised in S.NO.36/9 of Noombal Village, Poonamallee Taluk, Tiruvallur District and quash the same and treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act (Act 20 of 1999) so as to enable the third respondent, to incorporate the name of the petitioner as owner of the land measuring 2400 Sq.ft in the said S.NO.36/9 of Noombal Village.



Prayer in WP No.36068 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records of the respondents especially the order of the 2nd respondent dated 31.01.1992 under section 9 (5) vide Na.Ka.3731/91/D and Notice dated 10.02.1993 vide Rc.3731/91/A, under Section 11(5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, in respect of lands measuring 2400 sq.ft bearing plot no.29, of shanmuga nagar, comprised in Survey No.36/8 and 36/9, of Noombal Village, Poonamalee Taluk, Tiruvallur District and quash the same and treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act so as to enable the third respondent, to incorporate the name of the petitioner as owner of the land measuring 2400 sq.ft in the said Survey Number 36/8 and 36/9 of Noombal Village.

Prayer in WP No.40227 of 2006:

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents especially the order of the 2nd respondent dated 31.1.1992 under section 9 (5) vide Na.Ka.3731/91/D and Notice dated 10.2.1993 vide Rc.3731/91/A under section 11(5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect of land comprised in survey NO.36/8 survey No. 36/9 measuring 6200 sq.mts. of Noombal Village, Poonamallee Taluk, Tiruvallur District and quash the same and treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal (Act 20 of 1999) so as to enable the third respondent, to correct the entries in their records showing the name of the petitioner as owner of the land in Survey Number 36/8 and 36/9 of Noombal Village.

For Petitioners
in all W.Ps : Mr.V.Ramesh

For Respondents
in all W.Ps : Mr.A.Selvendran
Special Government Pleader

C O M M O N O R D E R

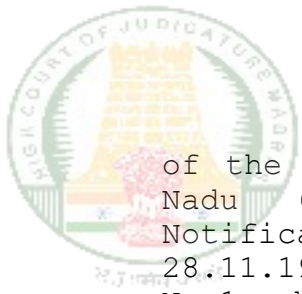
These Writ Petitions have been filed to issue a Certiorarified Mandamus, calling for the records of the respondents, especially the order of the second respondent, dated 31.01.1992 under Section 9(5), vide Na.Ka.3731/91/D and Notice dated 10.02.1993, vide Rc.3731/91/A under Section 11(5)



of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 (hereinafter referred to as 'the Act' for short) in respect of the respective petitioners' lands and quash the same, and treat the proceedings as "abated" under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act, (Act 20 of 1999) (hereinafter referred to as 'the Repeal Act' for short), so as to enable the third respondent, to incorporate the name of the petitioners as owners of the respective lands.

2. All the petitioners have purchased their respective house plots in their respective lands. After purchasing the said lands, they are in possession and enjoyment of the same, after putting up construction and are residing there. The petitioners' respective houses, have been assessed to tax and they have been provided with electricity connection also and they are paying electricity consumption charges. Thereafter, they came to understand that the subject lands were acquired under the Act and when they approached the Revenue Authorities for issuance of patta, they obtained only certified copies of the order passed by the second respondent under Sections 9(5), 10(1) and 11(5) of the Act, which revealed that the subject lands were acquired under the name of one Ramalingam S/o. Ponnuswamy Naicker, who is not the owner of the property, at the time of acquisition. The possession of their respective house plots, is very much on the petitioners. However, a notice under Section 11(5) of the Act was not served on the respective petitioners and now, the physical possession has not been taken over till today. Therefore, the non-service of notice under Section 11(5) of the Act is fatal and the entire acquisition proceedings have lapsed, since after the Repeal Act, if the possession has not been taken over, the entire acquisition proceedings stands lapsed.

3. On a perusal of the common counter affidavit filed by the respondents, it reveals that Ramalinga Naicker, Rajambal and Krishna Naicker were found to be the owners of the lands comprised in S.Nos.36/8 and 36/9 respectively measuring an extent of 6200 sq.mts and 6000 sq.mts situated at Noombal Village as per Revenue Records. Since they had not filed "Return" under Section 7(1) of the Act, a notice under Section 7 (2) of the Act was issued by the second respondent to them and the same was duly received by them. However, they have not filed any objection. Subsequently, a notice under Section 9(4) along with statement under Section 9(1) of the Act was issued by the second respondent on 12.11.1991, calling upon them to raise objections if any. The said notice was duly received by one Rajeswari daughter of the said Ramalinga Naicker and Rajambal daughter of said Krishna Naicker. Thereafter, no objections were received and as such, the final statement under Section 10(1) of the Act was issued on 27.05.1992. The same was also received by their respective daughters. The Notification under Section 11(1)



of the Act was issued on 14.09.1992 and published in the Tamil Nadu Government Gazette No.41, dated 21.10.1992. The Notification under Section 11(3) of the Act was issued on 28.11.1992 and published in the Tamil Nadu Government Gazette No.1, dated 06.01.1993. The notice under Section 11(5) of the Act was issued on 10.02.1993 in respect of the lands comprised in S.No.36/9 and in respect of S.No.36/8, it was issued on 29.01.1993, it was received by the daughter of the land owner on 14.03.1993 and the possession of the excess land was taken over and handed over to the Revenue Authorities on 15.02.1994 by signing the land delivery receipts. Thereafter, the notice under Section 12(7) of the Act was issued on 04.05.1994 and the same was received by her on 13.07.1994. The orders were passed under Section 12(6) of the Act and issued on 18.01.1995. Subsequently, the "excess land" was allotted to the Tamil Nadu Slum Clearance Board, vide G.O.Ms.No.1003, Revenue Department, dated 30.09.1996.

4. On a perusal of the respective sale deeds, it is clear that all the petitioners have purchased the said property by their respective sale deeds in the year 1999 itself viz., after the Repeal Act came into force with effect from 16.06.1999. Therefore, their respective possession was handed over on the date of their purchase and they have constructed respective houses which were also assessed to property tax. Even till today, they are residing there and paying house tax and the electricity consumption charges. That apart, from their sale deeds, it reveals that the subject properties were sold out by one L.Srinivasan So/.P.Lakshmanan. The said Srinivasan derived title by the sale deed dated 17.02.1992, which was executed by one Pugazharasu through his Power Agent one J.Aadidevan S/o.Jagannathan. Therefore, as early as on 17.02.1992, the said Ramalinga Naicker, Rajambal and Krishna Naicker were not the owner of the properties comprised in S.Nos.36/9 and 36/8. Hence, the entire proceedings were initiated as against the said Ramalinga Naicker, Rajambal and Krishna Naicker. However, the physical possession of their respective house plots are very much with the respective petitioners.

5. Further, from the counter affidavit, it also reveals that the notice under Section 11(5) of the Act was issued on 10.02.1993 and the same was received by Rajeswari, viz., the daughter of said Ramalinga Naicker on 14.03.1993. On the date of issuance of the notice under Section 11(5) of the Act, the said Ramalinga Naicker was not the owner of the property and the petitioners have purchased the said property on the date of notice issued under Section 11(5) of the Act. The petitioners were never served with the notice under Section 11(5) of the Act and they are in possession and enjoyment of the respective



plots, after constructing their respective houses. Therefore, the entire work done by the second respondent was only by "desk work" and no physical possession has been taken yet. Therefore, the entire acquisition had lapsed as per the Repeal Act.

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6. In view of the above discussion, the impugned proceedings have lapsed. The third respondent is directed to mutate the Revenue Records in the name of respective petitioners as per the respective sale deeds and issue Patta to the petitioners, within a period of four weeks from the date of receipt of a copy of this order.

7. In the result, these Writ Petitions are allowed with the above direction. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Commissioner &
Commissioner of Land Reforms,
Chepauk, Chennai - 5.
 2. The Assistant Commissioner/
Competent Authority (Urban Land Ceiling),
Sannadhi Street,
Poonammllee,
Chennai - 600 056.
 3. The Tahsildhar,
Poonamallee Taluk,
Poonamallee.
- +1 cc to Mr.T.Thiyagarajan, Advocate Sr.NO. 60966

W.P.No.11690 of 2006 etc., batch

SSV co
A.SK(22.12.2021)