

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.9270 of 2006 and
W.M.P. No.109270 of 2016 & W.V.M.P. No.38 of 2019

K.Kalyanasundaram

.. Petitioner

Vs.

1.The Special Commissioner &
Commissioner of Land Reforms
Chepauk, Chennai - 600 005

2.The Competent Authority/Urban Land Ceiling
Tiruvallur District
Poonamallee Zone,
Chennai - 600 056

3.The Tahsildar
Poonamallee Taluk, Poonamallee

.. Respondents

Prayer: Writ Petition 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 16.5.1997 under Section 10(1) vide Rc.1072/97/D and dated 30.11.1998 under Section 11(5) vide R.C.1072/97/D in respect of lands in Survey Nos.36/2 Part, 50/2A, 50/3, 54/1A3, in all measuring 8800 sq. metres, of Karunagarachery Village, Poonamallee Taluk, Tiruvallur District and quash the same and treat the proceedings as abated under Section 4 of the Tamil Nadu Land (Ceiling & Regulation) Repeal Act, Act 20 of 1999, so as to enable the third respondent to make entries in their records showing the name of the petitioner as owner of the lands in the said survey numbers.

* * *

For Petitioner : Mr.V.Ramesh

For R1 to R3 : Ms.A.Madhumathi,
Special Government Pleader

O R D E R

This writ petition is filed for issuing a writ of certiorarified mandamus to quash the impugned order of the second respondent, namely the Competent Authority under the Urban Land Ceiling Act, Tiruvallur District, dated 16.05.1997 and the proceedings dated 30.11.1998 purported to have been issued under Sections 10(1) and 11(5) of the Urban Land

Ceiling Act, in respect of the lands in Survey Nos.36/2 Part, 50/2A, 50/3, 54/1A3, in all measuring 8800 sq. metres, of Karunagarachery Village, Poonamallee Taluk, Tiruvallur District.

2. It is seen that the proceedings have been initiated just prior to the repealing Act, namely Tamil Nadu Land (Ceiling & Regulation) Repeal Act (Act 20 of 1999).

3. It is the case of the petitioner that the proceedings were initiated originally in the name of the father of the petitioner viz. Mr.T.Kuppusamy, who died on 28.08.1987. Since the proceedings were initiated against a death person, one of the contentions raised by the petitioner's counsel is that the proceedings cannot be allowed to stand. It is the further contention of the learned counsel appearing for the petitioner that since the petitioner is in possession of the property and that no notice under Section 11(5) of the Act was served, the proceedings cannot be taken to have been completed by taking possession. In short, the learned counsel appearing for the petitioner submitted that the proceedings will not come to an end till physical possession is taken from the person in actual physical possession.

4. This court, has time and again held that physical possession ought to have been taken from the person who is in actual physical possession to save the proceeding from the Repealing Act. Since it is admitted that the possession is not taken from the petitioner and no notice was issued to the petitioner under Section 11(5) of the Act, this court has to treat the proceedings as lapsed by the advent of the Tamil Nadu Land (Ceiling & Regulation) Repeal Act (Act 20 of 1999), which came into force in 1999. As a result, the impugned orders passed by the second respondent are liable to be quashed and the petitioner is entitled to the relief as prayed for.

5. Accordingly, the writ petition is allowed and the orders of the second respondent dated 16.5.1997 and 30.11.1998, impugned in the present writ petition, are quashed. It is open to the petitioner to approach the third respondent, for mutation of revenue records in terms of the decision of this court in this writ petition. However, there is no order as to cost. Consequently, connected MPs are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Special Commissioner &
Commissioner of Land Reforms
Chepauk, Chennai - 600 005

2.The Competent Authority/Urban Land Ceiling
Tiruvallur District
Poonamallee Zone
Chennai - 600 056

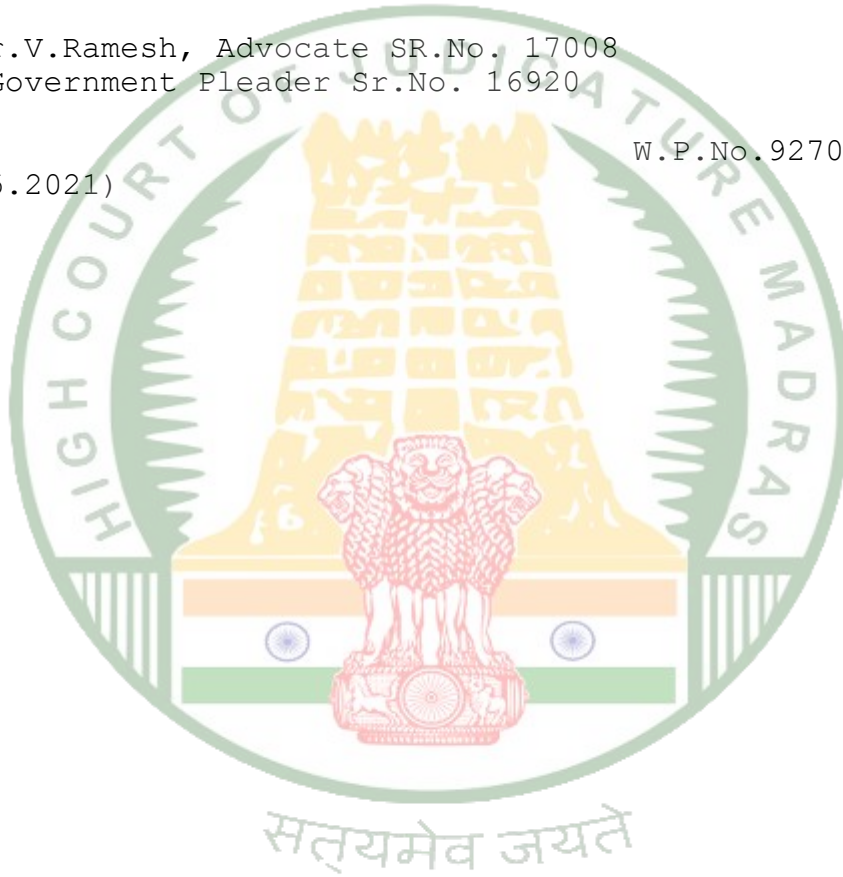
3.The Tahsildar
Poonamallee Taluk, Poonamallee

+1cc to Mr.V.Ramesh, Advocate SR.No. 17008

+1 cc to Government Pleader Sr.No. 16920

W.P.No.9270 of 2006

A.SK(18.05.2021)



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