



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2021

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.9360 of 2006

and

W.P.M.P.No.10350 of 2006 and W.V.M.P.No.60 of 2008

M.Balakrishnan

... Petitioner

Vs

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

2. The Competent Authority/Urban Land Ceiling &
Assistant Commissioner (ULT) /Alandur,
Sannadhi Street, Adambakkam,
Chennai - 600 088.

3. The Tahsildar,
Tambaram Taluk,
Tambaram.

... Respondents

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 31.03.1989, vide Na.Ka.4202/88/A under Section 9(5) and Notice dated 20.8.90, vide RC.4202/88A under Section 11(5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect of lands in Survey No.389/4A1A6 of S.Kolathur Village, measuring 583.20 square meters and quash the same and further direct the respondents to treat the proceedings referred to above 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 entry in the revenue records, incorporating the name of the petitioner as owner of the above land.

WEB COPY

For Petitioner : Mr.V.Ramesh

For Respondents : Mr.A.Selvendran
Special Government Pleader

ORDER

This writ petition has been filed to issue a Certiorarified Mandamus, calling for the records of the respondents, especially the order of the second respondent dated 31.03.1989, vide Na.Ka.4202/88/A under Section 9(5) and Notice dated 20.08.1990, vide RC.4202/88A 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 lands in Survey No.389/4A1A6 of S.Kolathur Village, measuring 583.20 square meters and quash the same and further direct the respondents to treat the proceedings referred to above 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 correct the entry in the Revenue Records, incorporating the name of the petitioner as owner of the above land.

2. The petitioner owned the land ad-measuring 1362.33 sq.mts in three locations. He filed Return under Section 7(1) of the Act before the second respondent. After filing the Return, a notice dated 31.03.1989 was issued under Section 9(4) of the Act and draft statement under Section 9(1) of the Act was served on the petitioner and the petitioner raised objections. However, the second respondent, without determining his holding with reference to the provisions of the Act, relied on the orders passed by the Government under Section 21 (1) (a) of the Act and held that an extent of 583.20 sq.mts in S.No.389/4A1A6 situated at S.Kolathur Village was in excess of the ceiling limit. Accordingly, on 31.03.1989, an order was passed under Section 9(5) of the Act. The second respondent issued final statement and a notice dated 20.08.1990 under Section 11(5) of the Act. Pursuant to the notice under Section 11(5) of the Act dated 20.08.1990, the petitioner never surrendered possession of the said land to the second respondent and the petitioner continued to be in absolute



possession and enjoyment of the subject property. In fact, the petitioner sold a portion of the land comprised in S.No.389/4A1A6 and the remaining extent is in his absolute possession and enjoyment. That apart, the petitioner has not received any compensation with regard to the lands acquired by the second respondent.

3. Mr.V.Ramesh, learned counsel appearing for the petitioner submitted that, except the notice under Section 9(1) of the Act, neither the order under Section 9(5) nor other proceedings under Sections 10(1) and 11(5) of the Act were served on the petitioner. When the petitioner submitted application for issuance of Patta, Chitta and Adangal for the lands comprised in S.No.389/4A1A6 on 28.05.2004, the petitioner's request was not considered by the third respondent. Thereafter, he was informed that the subject land was acquired by the second respondent.

4. The second respondent filed counter affidavit from which, it reveals that the petitioner had filed statement under Section 7(1) of the Act on 23.09.1978 for the Urban Land comprised in S.No.389/4A1A6 ad-measuring an extent of 892 sq.mts situated at S.Kolathur Village and the land comprised in S.Nos.46/1B & 46/2A2 ad-measuring an extent of 470 sq.mts situated at Perungudi Village. The second respondent served notice on 27.01.1981 requesting the the petitioner to appear for enquiry on 16.02.1981. On the enquiry, the petitioner submitted that his wife had purchased vacant land ad-measuring 2525 sq.ft., or 234 sq.mts situated in Krishnampet, Chennai-5 comprised in S.No.785/10 by the registered sale deed dated 14.02.1980. Therefore, they proposed to set up a factory for manufacture of centrifugal pumps in the land owned by him in S.Kolathur Village and he has expressed his willingness to surrender the land as per the statement made under Section 7(1) of the Act. Later, he had decided to retain the excess vacant land. However, the Government, by order No.595/Revenue Department, dated 16.04.1985 rejected the petitioner's request for exemption from Urban Land Ceiling and for retention of the excess vacant land and also directed the Department to acquire the excess vacant land ad-measuring an extent of 583.20 sq.mts. The draft statement under Section 9(1) and notice under Section 9(4) of the Act to acquire the excess vacant land comprised in S.No.389/4A1A situated at S.Kolathur Village ad-measuring an extent of 583.20 sq.mts, was issued on 28.10.1985 and the same was served on the urban land owner on 30.06.1986. The petitioner had sent his objections to the second respondent on 06.08.1986. After considering of the objections, the subject property was declared as excess and order



under Section 9(5) of the Act was passed on 31.03.1989. It was received by the petitioner on 15.04.1989. Aggrieved by the same, the petitioner filed an appeal before the first respondent and subsequently, it was dismissed by order dated 19.03.1990. Thereafter, the final statement under Section 10(1) of the Act dated 28.04.1989 was sent to the petitioner and the same was received by the petitioner's representative on 24.05.1989. The notification for determination of the excess vacant land under Section 11(1) was published in the Tamil Nadu Government Gazette in Notification No.VI (1) p671/90, dated 30.05.1990 and notification under Section 11(3) of the Act was published in the Tamil Nadu Government Gazette VI (I), dated 25.09.1990. The notice under Section 11(5) of the Act was sent to the urban land owner on 04.10.1990 which was received by one T.Santhi on behalf of the petitioner on 08.10.1990. The possession of the excess vacant land was taken over and handed over to the Revenue Department on 15.11.1990.

5. Admittedly, notice under Section 11(5) of the Act was sent to the petitioner on 20.08.1990 and according to the second respondent, it was received by the said T.Santhi and the petitioner never authorised any person to receive any notice. That apart, the possession of the excess land was taken over and handed over to the Revenue Department on 15.11.1990. There is absolutely no record to show as to when the land acquired has been taken possession by the second respondent. That apart, notice under Section 11(5) of the Act was served on the petitioner. When notice under Section 10(1) of the Act was sent through R.P.A.D, there was no explanation by the second respondent, as to why the notice under Section 11(5) of the Act was sent by other mode, that too to the said T.Santhi. The petitioner is still in possession and enjoyment of the subject property, which was subjected for acquisition under the Act. When that being so, there are no records to show that the second respondent invoked the provisions under Section 11(6) of the Act. Therefore, the second respondent made only desk work and no physical possession has been taken over till today. In view of the sole ground, the entire proceedings are vitiated and it is liable to be set aside.

6. In view of the above discussion, the impugned proceedings are set aside. Admittedly, the petitioner is in possession and enjoyment of the subject property and as such, under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act, (Act 20 of 1999), the entire acquisition proceedings have lapsed, since the physical possession has not been taken over.



WEB COPY

7. In the result, this Writ Petition is allowed.
Consequently, the connected Miscellaneous Petitions are closed.
No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

kv

To

1. The Special Commissioner &
Commissioner of Land Reforms,
Chepauk, Chennai - 600 005.
2. The Competent Authority/Urban Land Ceiling &
Assistant Commissioner (ULT) /Alandur,
Sannadhi Street, Adambakkam,
Chennai - 600 088.
3. The Tahsildar,
Tambaram Taluk,
Tambaram.

+1cc to Mr.T.Thiyagarajan, Advocate SR.No.60965

W.P.No.9360 of 2006

PMK(CO)
CB(15/12/2021)