

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 09-02-2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.2967 of 2009

M/s.Forgetech Pvt.Ltd.

...Petitioner

-vs-

- 1 The Special Commissioner &  
Commissioner of Land Reforms,  
Chepauk, hennai-600 005.
2. The Assistant Commissioner/U.L.T.,  
Competent Authority (Urban Land Ceiling),  
Alandur, Sannadhi Street, Adambakkam,  
Chennai-88.
3. The Tahsildar,  
Tambaram Taluk,  
Tambaram,  
Chennai.

... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus, to call for the records of the respondents, especially the orders of the second respondent, dated 31.03.1987, vide Rc.1448/86/A under Section 9 (5) and Notice, dated 27.09.1988, under Section 11 (5) respectively of the Tamil Nadu Urban Land (Ceiling and Regulation) Act,1978, in respect of land measuring an extent of 1393 sq.mts. in R.S.No.286/3C and new Survey No.286/3C2 and later subdivided as Survey No.286/3C2B of Kottivakkam Village, Saidapet Taluk, Kancheepurram District, and quash the same and treat the proceedings of the second respondent 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 in respect of lands referred to above in all revenue records.

For Petitioner : Mr.V.Ramesh

For Respondents: Mrs.A.Madumathi,  
Special Govt.Pleader.

## ORDER

Petitioner is a private limited company, registered under the Companies Act, 1956. It purchased land, measuring an extent of about 1 acre in Kottivakkam Village, comprised in old Paimash Nos.184/1, 184/3 and 184/5, corresponding to R.S.No.286/3C and new Survey No.286/3C2 as per the registered Sale Deed, dated 27.04.1982. Petitioner states that the land was purchaed from M/s.Sri Ram Industries. Since a few constructions were also there in the land, it is stated by the petitioner that their vendor M/s.Sri Ram Industries had filed an application for exemption of certain land from urban land ceiling and that they were conscious that the holding of their vendor did not exceed the ceiling limit. Petitioner also states that they are in possession of the property as absolute owner from the date of purchase i.e., on 27.04.1982 and that they have put up additional constructions, which are assessed in the name of the petitioner by the local body. Physical possession of the property by the petitioner is evidenced by the additional constructions, electricity connection, payment of electricity charges etc.

2. When that be so, the respondents have initiated proceedings to acquire the land under the Tamil Nadu Urban Land (Ceiling and Regulation) Act,1978, hereinafter, referred to as ''the Act''. Petitioner's vendor though raised some objection questioning the urban land ceiling proceedings, it is admitted that an order came to be passed under Section 9 (5) of the Act, vide order, dated 31.03.1987. Though an appeal was filed against the said order by one Mr.S.Ramamurthy, the previous owner, the appeal was not pursued properly and it was dismissed, as the erstwhile owner did not prosecute further.

3. It is stated by the petitioner that he was not aware of the proceedings and that his vendor had not pursued the appeal properly. In connection with the acquisition proceedings by National Highways Department, petitioner had to approach the revenue officials for patta and that he was informed about the acquisition of an extent of 1393 sq.mts. under the provisions of the Act. Hence, petitioner applied to first respondent seeking certified copies of the orders passed under Sections 9 (5) and 11 (5) of the Act. Second respondent furnished certified copies of the orders under Section 9 (5), dated 31.03.1987, and the Notice under Section 11 (5), dated 27.09.1988, during the first week of August,2008. After getting certified copies of the proceedings impugned in the Writ Petition, the present Writ Petition was filed to quash the proceedings of the second respondent, as stated supra, in respect of the land, which was declared as surplus and consequently to treat the said proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act (Act 20 of 1999), in short, ''the Repeal Act.''

4. Though the petitioner has raised many grounds challenging the validity of the proceedings impugned in the Writ Petition, the main point that is urged before this Court is about the abatement of proceedings by virtue of Section 4 of the Repeal Act.

5. It is contended by the petitioner that Notice under Section 11 (5), dated 27.09.1988, was issued to Mr.S.Ramamurthy, the previous owner, to surrender possession of the land. Since possession and enjoyment was with the petitioner, it is stated that it was impossible for the addressee to respond to the notice for surrender of possession. When the addressee of the notice issued under Section 11 (5) of the Act failed to surrender possession as directed by the competent authority, it was open to the competent authority to take action under Section 11 (6), using force. Since no efforts were taken to take possession or to demolish building by using force, it is contended by the learned counsel for the petitioner that the proceedings under the Act have now come to an end and, therefore, by virtue of the Repeal Act, proceedings of second respondent impugned in the Writ Petition should be treated as abated.

6. Section 11 (5) of the Act contemplates service of notice on any person, who is in possession of the land. Since the word 'any person', used under the Section, is quite different from the words, which are used to indicate ownership in the earlier provisions of the Act, it is contended by the learned counsel for the petitioner that no proceeding is initiated in a lawful manner to take possession of the land and, therefore, all proceedings stand abated under Section 4 of the Repeal Act. Accordingly, learned counsel for the petitioner would contend that the petitioner is entitled to the benefit of Section 4 of the Repeal Act for releasing the lands from the purview of ULC Act.

7. Since the petitioner's title, possession and enjoyment of the property are established by overwhelming documents produced in the typed set of papers, learned counsel for the petitioner submitted that the proceedings as against the petitioner, who was in lawful possession and running an industrial unit in the property, which was declared surplus in the holdings of the previous owner, will not stand. It is also contended that paper possession will not be of any use to the respondents, as the Act does not contemplate a symbolic or paper possession.

8. In the Counter Affidavit filed by the respondents, in paragraph 3, it is stated as follows :

'3. The petitioner - M/s.Forgetech Private Limited had applied to the Government on 25.2.1982 requesting to grant permission to purchase the entire extent with all the superstructure and

machinery. Meanwhile, the Urban Land Owner Thiru S.Ramamurthy sold the entire land with industry to M/s.Forgetech Private Limited vide Document No.1508/82, dated 27.4.1982. The Government, in their Letter No.(Per) 438, Revenue dated 3.4.1986, rejected the request of M/s.Sree Ram Industries on the ground that the company sold the land to M/s.Forgetech Private Limited in violation of Section 6 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act,1978, and ordered to acquire the excess vacant land measuring 1290.30 sq.metres under Section 9 to 11 of the said Act from the urban land owner Thiru S.Ramamurthy.''

Again, the respondents have categorically admitted that the proceedings were initiated under the provisions of the Act against the erstwhile owner M/s.Sri Ram Industries and that no notice was issued to the petitioner, even though the land was purchased by the petitioner wayback in 1982. Even, Notice under Section 11 (5) of the Act was issued on 27.09.1988, requesting the previous owner to surrender possession of the excess land and it was served on the urban land owner on 08.10.1988 by RPAD. It is further stated that though possession of excess vacant land was taken over and handed over to revenue department on 28.04.1989, it is not known how and in what manner the petitioner was dispossessed even without being issued the notice at any stage of the proceedings. Further, the proceedings under Section 12 (7), dated 17.10.1989, and the Order under Section 12 (6) of the Act, determining the amount payable for acquiring land, were issued only to the urban land owner i.e., the previous owner. Since the petitioner purchased the land as per the registered sale deed, dated 27.04.1982, it is contended by the respondents that the sale or transfer is null and void as per Section 6 of the Act. It is also stated by the respondents that possession and enjoyment of the Government land by the petitioner company for the past 19 years is against the provisions of the Act and, therefore, the petitioner would be evicted. It is further contended that the petitioner has no locus standi. In the counter affidavit, the respondents have also mentioned the chronological events, by which, the land belonging to the petitioner was acquired under the Act, by treating the land in the holdings of the erstwhile owner.

9. In the above factual scenario, the question that arises for consideration before this Court is, whether the proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act,1978, should be treated as abated, in view of non-compliance of the specific provisions contained under Section 11 (5) of the Act ?

10. Learned counsel appearing for the petitioner has convinced this Court that actual possession of the property is with the petitioner and that, as on the date, when the Repeal

Act was enacted, the petitioner was not in mere possession and enjoyment of the land, but was also running an industry. In support of his contention, the learned counsel relied upon a Division Bench decision of this Court in the case of V.Somasundaram and Others v. Secretary to Government, Revenue Department, reported in 2007 (2) LW 109, wherein, in similar circumstances, it was held as follows :

'7. Heard the learned Special Government Pleader for the respondents 1 and 2, who also produced the entire file and submitted that the possession was taken on 30.4.1999. We have perused the file and we find that there is no proof that notice was given to the appellants before taking possession under section 11(5) of the Act. The learned Special Government Pleader submitted that the possession having been taken before the repeal of the Act, the appellants are not entitled to challenge the orders of the respondents.

8. We have considered the rival contentions of the learned counsel for the appellants as well as the learned Special Government Pleader for the respondents 1 and 2.

9. From the perusal of the file it is clear that proceedings were initiated against the third respondent, who is the erstwhile owner of the lands in question, in respect of transfer of his land to the appellants herein. Section 11(5) notice was also issued to the third respondent, who was not the real owner . As per section 11(5) of the Act, the competent authority is bound to issue notice in writing to any person, who may be in possession of the land, to surrender and delivery possession thereof, to the State Government or to any person duly authorised by the State Government, within thirty days time. No notice having been issued against the appellants, who are in possession of the lands as stated supra, taking possession of lands on 30.4.1999 by the second respondent is non-est. It is to be noted that due to the repealing of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, with effect from 16.9.1999, it is not open to the authorities to proceed against the appellants at this stage to rectify the non-compliance of section 11(5) of the Act.'

The Hon'ble Division Bench also approved the view taken by a learned single Judge of this Court in another case, where facts were similar.

11. Learned counsel for the petitioner has also relied

upon yet another judgment of the Hon'ble Supreme Court in Civil Appeal No.2326 of 2013 in the case of State of U.P. v. Hari Ram and other batch cases, wherein, the Apex Court, dealing with similar provisions under the U.P.Act and the subsequent Repeal Act, held that if the land owner did not surrender possession voluntarily after notice or the land owner is not dispossessed by use of force, it cannot be said that the State Government has taken possession of the vacant land. The position is clarified by the Hon'ble Supreme Court in the following lines :

'36. Above-mentioned directives make it clear that sub-section (3) takes in only de jure possession and not de facto possession, therefore, if the land owner is not surrendering possession voluntarily under sub-section (3) of Section 10, or surrendering or delivering possession after notice, under Section 10(5) or dispossession by use of force, it cannot be said that the State Government has taken possession of the vacant land ''

'39. The mere vesting of the land under sub-section (3) of Section 10 would not confer any right on the State Government to have de facto possession of the vacant land unless there has been a voluntary surrender of vacant land before 18.3.1999. State has to establish that there has been a voluntary surrender of vacant land or surrender and delivery of peaceful possession under sub-section (5) of Section 10 or forceful dispossession under sub-section (6) of Section 10. On failure to establish any of those situations, the land owner or holder can claim the benefit of Section 3 of the Repeal Act. The State Government in this appeal could not establish any of those situations and hence the High Court is right in holding that the respondent is entitled to get the benefit of Section 3 of the Repeal Act.''

12. Another Division Bench of this Court, in M/s.Sree Jayalakshmi Brick Industries v. The Special Commissioner and Secretary to Government and Others, 2009 (4) L.W.819, elaborately discussed the issue and, after referring to several judgments of this Court earlier, including the judgment of the Division Bench referred to above, held as under :

'8. The learned counsel for the petitioner vehemently argued that though the third respondent was aware of the purchase of the concerned lands by him in the year 1980 itself, no notice was issued to him under Section 11(5) of the Act. He further argued that the Tribunal erred in holding that the petitioner need not be given notice under

Section 11(5) of the Act as the sale in 1980 is hit by Section 6 of the Act. The learned counsel for the petitioner draws attention of the word #any person# used in Section 11(5) of the Act. He further contended that any person who is in possession of the land is entitled to notice to surrender or deliver possession to the Government. He heavily relied on the judgment of the Division Bench of this Court (presided over by Honourable Mr. Justice Sathasivam as he then was) in V.Somasundaram and others Vs. Secretary to Government, Revenue Department, Chennai and others reported in 2007(1) MLJ 750. Paragraph No. 9 of the said judgment is heavily relied on by the learned counsel for the petitioners, which is extracted here-under:

"9.From the perusal of the file it is clear that proceedings were initiated against the third respondent, who is the erstwhile owner of the lands in question, in respect of transfer of his land to the appellants herein. Section 11(5) notice was also issued to the third respondent, who was not the real owner. As per Section 11(5) of the Act, the competent authority is bound to issue notice in writing to any person, who may be in possession of the land, to surrender and deliver possession thereof, to the State Government or to any person duly authorised by the State Government, within thirty days' time. No notice having been issued against the appellants, who are in possession of the lands as stated supra, taking possession of lands on 30.04.1999 by the second respondent is non-est. It is to be noted that due to the repealing of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, with effect from 16.09.1999, it is not open to the authorities to proceed against the appellants at this stage to rectify the non-compliance of Section 11(5) of the Act".

9.The learned counsel for the petitioner relied on another decision dated 18.06.2007 of the Division Bench presided over by the Honourable Mr. Justice S.J.Mukhopadhaya, in W.A.Nos.693 to 695 of 2003 in Annie Jacob and others Vs. The State of Tamil Nadu and another, wherein also a similar view was expressed. Paragraph No.8 of the decision is extracted here-under:

"8.There is nothing on the record to suggest that the competent authority issued any notice in writing directing the original land holder or the

appellants to surrender or deliver possession of the lands in question. Nothing has been produced to suggest that the original land holder or the appellants refused or failed to comply with such order and on failure the possession of the lands were taken by force. In absence of such notice under section 11(5) or action taken under Section 11(6), a bald statement as made by the respondents that possession was taken on 10th February, 1995, cannot be accepted.....".

10. The learned counsel for the petitioner contended that while notices under Section 9(4) or under Section 7(2) of the Act ought to be addressed to the owner of the land for the purpose of determining the excess vacant land, the notice contemplated under Section 11(5) of the Act is to be issued to the person in possession also, since the purpose was seeking delivery of possession. He further pointed out that notice contemplated under Section 11(5) of the Act is quite different from notice contemplated under other provisions of the Act. He also pointed out that the words used in Section 11(5) of the Act "any persons who may be in possession" and no such wording is found in Sections that deals with the acquisition of the land.

11. On the other hand, the learned Special Government Pleader contended that the petitioner is not entitled to notice under Section 11(5) of the Act in view of the Division Bench decision of this Court in Prabhavathi Jain and 4 others Vs. The Government of Tamil Nadu and 8 others reported in 1995 (2) L.W. 200. We have perused the judgment. We are of the view that the judgment did not decide whether Section 11(5) contemplates service of notice on the person who is in possession of the concerned excess land. On the other hand, the judgments cited by the petitioner are on the point. Further it is not the case of the petitioner that he is entitled to notice under Section 7 or 9 while acquiring the land.

12. In view of such categorical pronouncements of this Court, we are of the view that the notice under Section 11(5) should be served on the petitioner. Though, his purchase by a sale deed is made invalid by Section 6 of the Act, in view of the word #any person who may be in possession# used in Section 11(5) of the Act, notice ought to have been served on the petitioner

to surrender or deliver possession to the Government.

13. Further, the learned counsel for the petitioner argued from the records produced that even the vendor of the land was also not served with the notice under Section 11(5) of the Act read with Rule 10(3). According to him, the notice under Section 11(5) should be sent by RPAD. In this case, admittedly, the records do not indicate that notice was sent through RPAD to the erstwhile owner. The learned counsel also pointed out that there was no endorsement from the erstwhile owner for the receipt of the notice. On the other hand, the records reveal that an endorsement was made by the official at page No.937 of the record file that notice was served on the erstwhile owners. According to the learned counsel for the petitioner, this does not amount to service of notice under Section 11(5) of the Act. The learned counsel for the petitioner strenuously contended that if such a method is approved, then the officials would cook up the records by simply making an endorsement in the notice without getting endorsement from the concerned persons for proof of service or by sending through RPAD. We find force in the submission of the petitioner.

14. We therefore, hold that there was no notice served under Section 11(5) of the Act either on the petitioner or on the erstwhile owner, viz., the vendor of the land.

15. The learned counsel for the petitioner further argued that the take over of possession is complete only when it is signed by the land owner or the person in possession while delivering the excess land under Section 11(5) of the Act read with Rule 10(3) of the Rules. If no such delivery of possession took place, the third respondent has to resort to Section 11(6) of the Act. It was argued that neither the erstwhile land owner (vendor) nor the petitioner signed the Land Delivery Receipt and the alleged take over of possession was not actual and real and it was only a paper possession and therefore, the petitioner is entitled to the benefit of the Section 4 of the Repealing Act 20 of 1999.

16. The learned counsel for the petitioner strenuously contended that the Tribunal erred in holding that the take over of possession on paper by the Revenue authorities on 31.12.1990 was

sufficient. In view of such a finding, the Tribunal came to an erroneous conclusion that Section 4 of the Repealing Act 1999 would not help the petitioner, according to the learned counsel for the petitioner.

17. The learned counsel for the petitioner argued that there should be actual take over of possession and the take over of possession in record is not the physical possession of the surplus lands. If the land owner is not a party to the Land Delivery Receipt, the take over should be established by getting signature from independent witnesses, preparing Panchanama, etc. But the records reveal that it is only possession in papers.

18. The learned counsel for the petitioner relied on the judgment of the Honourable Mrs. Justice Prabha Sridevan in W.P.No.19845 of 2006 dated 31.07.2006, wherein in paragraph No.13, the learned Judge held that mere recording of possession by the authorities will not amount to actually taking of possession. The learned Judge rejected the plea of taking of possession based on the similar Land Delivery Receipt produced in that case. In this context, the learned Judge recorded in paragraph No.8 that the Land Delivery Receipt does not show in whose presence, the possession was taken. The learned Judge also relied on a paragraph in W.P.No.35490 of 2004, which is as follows:

"When the respondent does not say that the petitioner had surrendered possession on it's own, then the respondent ought to have taken possession. Under Section 11(6) of the Principal Act, whenever a urban land owner fails to surrender possession as demanded under Section 11(5) of the Act, then the competent authority may take possession of the lands and may, for that purpose, use such force as may be necessary. Therefore, from the above two aspects namely, the urban land owner was directed to surrender possession and since he is not shown to have surrendered possession and the power of the Government to use such force as may be necessary in taking possession, clearly indicate that physical possession of the land must be taken by the competent authority. There is nothing

on record to show that "on what day possession was taken; was any representative of the writ petitioner present; the name of the person who took possession the person from whom possession was taken; are there any contemporary record to show that possession was in fact taken at such a time and on such a date when possession was handed over to the Revenue Inspector, Pallikaranai; are there any record to show such handing over to the Revenue Inspector, Pallikaranai and the name of the officer, who received possession of the lands.....

In 2002 (2) L.W.764 (C.V.Narasimhan Vs. The Government of Tamil Nadu etc., and 2 others), while considering the impact of the Repealing Act, had held that where physical possession of such land continues to be with the owner, the statutory vesting under Section 11(3) of the Act is of no relevance at all".

19. The learned counsel for the petitioner further cited the decision dated 25.09.2006 of the Honourable Mr.Justice F.M.Ibrahim Kalifulla in W.P.Nos.33839 and 33911 of 2004, wherein the learned Judge followed his earlier decision dated 09.09.2004 in W.P.No.6641 of 1997 and the same is extracted here-under:

"11. In this context, it is worthwhile to refer to the decision of S.JAGADEESAN, J in the judgment reported in C.V.NARASIMHAN rep. by HIS POWER AGENT SMT.JAYALAKSHMI, No.12, BISHOP GARDEN, RAJA ANNAMALAIPURAM, CHENNAI 28 vs. 1. THE GOVERNMENT OF TAMIL NADU, rep. BY ITS SECRETARY, REVENUE DEPARTMENT, FORT ST.GEORGE, CHENNAI-9. 2. THE SPECIAL COMMISSIONER AND COMMISSIONER OF LAND REFORMS, CHEPAUK, CHENNAI-5. 3. THE COMPETENT AUTHORITY, URBAN LAND CEILING, ALANDUR (2002-2-L.W.-764), wherein the learned Judge has clearly stated that so long as the physical possession of the land continues to be with the owner, even the statutory vesting of the land will be of no consequence."

The learned Judge in paragraph No.7 of the same judgment dated 25.09.2006 has held as follows:

"7. To the same effect is the order of

Justice R.Balasubramanian, dated 22.8.2006 passed in W.P.No.17416 of 2004, where the learned Judge, reiterating the position that the possession means taking physical possession, had held, "Therefore, the sine qua non to keep the property declared as surplus under the provisions of the Act is that physical possession of the said property ought to have taken by the competent authority despite coming into force of the Repealing Act."

20. The learned counsel for the petitioner heavily relied on paragraph No.10 of the judgment dated 19.10.2006 of the Honourable Mr.Justice K.Chandru in W.P.No.29061 of 2003, which is as follows:

"This Court in its judgment reported in (2006) 2 M.L.J. 664 (SOSAMMA THAMPY Vs. THE ASSISTANT COMMISSIONER (ULT) - CUM - COMPETENT AUTHORITY (ULC), has analysed all the previous case laws and categorically held that physical possession is required and mandatory under the ULC Act and noting in the file that symbolic possession is taken cannot be accepted as taking of physical possession. This Court is in complete agreement with the ratio laid down in the aforesaid decision which also squarely applies to the facts and circumstances of the case."

21. The learned counsel for the petitioner strenuously contended that the Act contemplates that if the persons in possession failed to deliver possession within 30 days of receipt of notice under Section 11(5), the Competent Authority has to take possession under Section 11(6) of the Act. The learned counsel has brought to our notice that the words "may for that purpose use such force as may be necessary" used in 11(6) indicates that to take actual possession, the Competent Authority is clothed with power under Section 11(6). In the absence of delivery of possession by land owner pursuant to notice under Section 11(5), the possession should have been taken through the manner suggested under Section 11(6). Since the notice under Section 11(5) was not even served, the symbolic possession is not a possession as contemplated under Sections 11(5) and 11(6) of the Act. The learned counsel for the petitioner also produced various receipts for payment of tax and the latest receipt is dated 07.03.2007 and various electricity bills including the last one dated 14.11.2008 besides Small Scale Industries Registration Certificate about the

carrying on the manufacturing of bricks, in support of his submission that the concerned lands are in his actual possession.

22. The learned Special Government Pleader vehemently argued that symbolic possession is sufficient when the actual take over of possession is not contemplated under the Act. We are not in agreement with that submission in view of the categorical pronouncements of this Court referred to above.

23. Once the possession is not taken over by the Government as held by us, all the proceedings under the Act must be held to have abated under Section 4 of the Repealing act, in view of the categorical pronouncement of the constitutional Bench of the Honourable Apex Court in Smt. Angoori Devi Vs. State of Uttar Pradesh and Others reported in JT 2000 (Suppl.1) SC 295.''

In the above case, a similar argument was considered by the Division Bench. It was contended by the Revenue that no notice need be given to the purchaser, as the sale in 1980 was hit by Section 6 of the Act. Rejecting the said contention, the Division Bench accepted the case of the appellant that a person in possession of the land is entitled to notice to surrender or deliver possession of land to Government and, in the absence of actual physical possession being taken from the person in possession, all proceedings under the Act must be held to have abated under Section 4 of the Repeal Act.

13. The Hon'ble Supreme Court, in the case of Vinayak Kashinath Shilkar v. Deputy Collector and Competent Authority, 2012 (4) SCC 718, with reference to Urban Land (Ceiling and Regulation) Act, 1999, as applicable to State of Maharashtra, held that while possession of the vacant land had not been taken over by the State Government, proceedings under the old Act would not survive. It was further held that mere vesting of vacant land with State Government by operation of law without actual possession is not sufficient for operation of Section 3 (1) of the saving clause of the Repeal Act. It is to be pointed out that the provisions of Maharashtra Act are in pari materia and, therefore, the decision of the Hon'ble Supreme Court can be applied to the present case.

14. Another Division Bench of this Court, in Government of Tamil Nadu and Others v. M/s. Mecca Prime Tannery, rep. by its Managing Director, 2012 (4) L.W. 289, had an occasion to consider the tenability of the arguments advanced by the respondents in the present case to the effect that the Government became the owner of the property after vesting of the land under Section 11 (3) of the Act and that even if possession of the land is retained by the land holder or any other person, it will be

considered as unlawful and illegal. The Division Bench negatived the argument and held that the appeals of the State were liable to be dismissed on the ground that the Revenue failed to satisfy the Court that possession of the land was taken over by the competent authority.

15. In view of the categorical pronouncements of the Hon'ble Supreme Court and also the Division Benches of this Court, this Court, agreeing with the principles laid down therein, coupled with the reiterated precedents, holds that the petitioner, though had purchased the property in the year 1982, is entitled to claim the benefit of Section 4 of the Repeal Act. Accordingly, the impugned proceedings initiated by the respondents against the erstwhile owner shall be treated as abated and the lands, which are the subject matter of proceedings under the Act, stood released from the purview of the Act so as to enable the petitioner to deal with the property as the absolute owner. Third respondent or any other revenue authority concerned is directed to incorporate the name of the petitioner as the owner in respect of the lands in question in the revenue records.

16. Writ Petition is allowed accordingly. No costs. Consequently, the connected M.P.No.1 of 2009 is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dixit

To

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

2.The Assistant Commissioner/U.L.T.,  
Competent Authority (Urban Land Ceiling),  
Alandur, Sannadhi Street, Adambakkam,  
Chennai-88.

3.The Tahsildar, Tambaram Taluk,  
Tambaram, Chennai.

+1 cc Mr.V.Ramesh, Advocate, SR.No. 7270

W.P.No.2967 of 2009

SSN(CO)

RMP(16/03/2021)