



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.7145 of 2010

A.Rajaraman

...Petitioner

Vs.

- 1.The Special Commissioner and  
Commissioner of Land Reforms,  
Chepauk, Chennai - 600 005.
- 2.The Asst. Commissioner of Urban  
Land Tax and Competent Authority  
Urban Land Ceiling Act, Madhavaram  
Now Asst. Commissioner of Urban  
Land Tax and Competent Authority  
Urban Land Ceiling Act  
Egmore-Tondiarpet Zone  
No.241, Poonamallee High Road,  
Aminjikarai, Chennai - 600 029.
- 3.The Tahsildar,  
Fort-Tondiarpet Taluk,  
Chennai - 600 003.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of declaration, declaring that the acquisition proceedings initiated by the respondents under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978 in respect of the lands comprised in survey No.109/4 at Ward No.1, Village No.31, Kodungaiyur Village, measuring to an extent of 23110 sq.ft. situate at No.13/2, Anna Salai, Kodungaiyur, Chennai 600 118 stands abated in view of Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulations) Repeal Act, 1999 namely Act 20 of 1999 so as to enable the third respondent to incorporate the name of the petitioner as owner of the above lands in all the revenue records.

For Petitioner : Mr.K.Bijai Sundar

For Respondents : Mr.A.Selvendran,  
Special Government Pleader

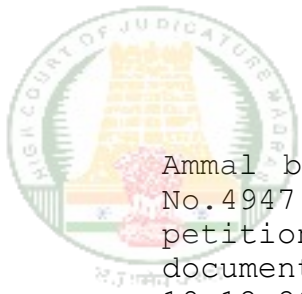


## ORDER

This Writ Petition has been filed for issuance of a Writ of declaration, declaring that the acquisition proceedings initiated by the respondents under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978 in respect of the lands comprised in survey No.109/4 at Ward No.1, Village No.31, Kodungaiyur Village, measuring to an extent of 23110 sq.ft. situated at No.13/2, Anna Salai, Kodungaiyur, Chennai 600 118 stands abated in view of Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulations) Repeal Act, 1999 namely Act 20 of 1999 so as to enable the third respondent to incorporate the name of the petitioner as owner of the above lands in all the revenue records.

2. The land comprised in Survey No.109/4 admeasuring to an extent of 86 cents (37496 sq.ft) situated at Village No.31, Kodungaiyur Village, Fort-Tondiarpet Taluk, Chennai, belongs to one Govindarajulu Naidu and he conveyed the same by way of sale deed dated 02.07.1940 registered vide document No.934 of 1940 in favour of one Neelambal. The said Neelambal conveyed the extent of 40.81 cents out of 86 cents to one Sultana Abdullah, by a registered sale deed dated 16.07.1964 vide document No.2603 of 1964. In turn, the said Sultana Abdullah sold out an extent of 3615 sq.ft together with the right of pathway admeasuring to an extent of 1560 sq.ft in favour of one S.Varadha Reddiar and his wife Mangammal by a registered sale deed dated 02.01.1970 vide document No.20 of 1970. Again the said Sultana Abdullah sold out to an extent of 2574 sq.ft out of 12497 sq.ft comprised in survey No.109/4 in favour of one Savithiri Ammal by way of a registered sale deed dated 03.01.1970 vide document No.21 of 1970. After selling two portions from out of the larger extent of the land, the said Sultana Abdullah was in possession and enjoyment of the remaining extent of 9923 sq.ft comprised in survey No.109/4 at Ward No.1, Village No.31, Kodungaiyur Village, Thiruvottiyur, Chennai. She died leaving behind her legal heirs. The legalheirs of the deceased Sultana Abdullah sold out the said land by a registered sale deed dated 04.10.2006 vide document No.8397 of 2006 in favour of the petitioner.

3. The another extent of 4125 sq.ft of land comprised in survey No.109/4 originally belonged to Lakshmi Ammal and she sold out to one S.Varadarajulu by a registered sale deed dated 23.10.1981 vide document No.4951 of 1981. During his life time, the said S.Varadarajulu executed a settlement deed dated 25.02.2000 registered vide document No.1457 of 2000. After his demise, his legal heirs conveyed the vacant land admeasuring to an extent 4125 sq.ft comprised in survey No.109/4 and V.Durai Ammal, Wife of S.Varadarajulu purchased 2400 sq.ft from Lakshmi



Ammal by a registered sale deed dated 23.10.1981 vide document No.4947 of 1981. Again the said property was purchased by the petitioner by a registered sale deed dated 06.12.2006 vide document No.10397 of 2006. Further, by a sale deed dated 18.12.2009 registered vide document No.8459 of 2009, the petitioner also purchased to an extent of 5175 sq.ft. of land comprised in survey No.109/4 from the legal heirs of the deceased V.Mangammal and her husband. The petitioner also purchased another extent of 1487 sq.ft comprised in survey No.109/4 from one T.Joseph by a registered sale deed dated 27.12.2006 vide document No.11158 of 2006. Thus, the petitioner became an absolute owner of the property to an extent of 23110 sq.ft of land comprised in survey No.109/4, Ward No.1, Village No.31, Kodungaiyur Village, Thiruvottiyur (herein after called the 'subject property').

4. Thereafter, the petitioner constructed a building and obtained electricity connection and the subject property is also assessed to property tax. The petitioner is in possession and enjoyment of the same. When the petitioner applied for patta for the subject property, he was given to understand that the property comes under the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978 (herein after called the 'Act').

5. The learned counsel for the petitioner would submit that the second respondent did not give any notice to the owners of the subject land. The notice under Section 7(2) of the Act shall be served to the land owner to file a statement under Section 7(1) of the Act. As per Section 9 of the Act, the competent authority prepared a draft statement on the basis of the statement obtained under Section 7 and served the draft statement to call for objections, after giving a reasonable opportunity to the owners and pass orders as to declaration of surplus land. Thereafter, as per Section 10(1) of the Act final statement shall be prepared after disposal of the objections to the draft statement and a copy of the final statement should be served on the person where such vacant land is held under a lease or a mortgage or a hire purchase agreement or an irrevocable power of attorney and also on the owner of the land. However, the petitioner and his predecessors are in continuous possession and enjoyment of the subject land. No notice had been served either to erstwhile owner of the land or the petitioner. The petitioner is in possession and enjoyment of the same and as such, the entire acquisition proceedings was lapsed, in view of Section 4 of the Repealing Act 20 of 1999.

6. That apart, the petitioner or his predecessors were never served notice under Section 11(5) of the Act to take possession of the subject property. If at all, the land owner denied the possession of the property then the respondent ought



to have invoked the provisions under Section 11(6) of the Act to take force of possession. However, no notice had been served to take possession of the subject property. He further submitted that even there is absolutely no whisper about the possession or the predecessor or the title over the subject property. Therefore, the entire acquisition proceedings was lapsed. In support of his contention he relied upon the following Judgments :

(i) 2012 (6) MLJ 273 in the case of Government of Tamil Nadu Vs. Mecca Prime Tannery

(ii) The Hon'ble Division Bench of this Court passed in W.A.No.297 of 2011 dated 03.12.2014 in the case of The Government of Tamil Nadu Vs. Aalim Muhammed Salegh Trust

(iii) The Hon'ble Division Bench of this Court passed in W.P.No.2998 of 2014 dated 05.08.2015 in the case of A.N.Visalakshi Vs. The Special Commissioner, Land Ceiling and Land Reforms and ors.

(iv) The order passed in W.P.No.759 of 2015 dated 06.02.2020 in the case of P.Babu and Ors Vs. The Union of India and Ors.

(v) The Hon'ble Division Bench of this Court passed in W.A.No.3998 of 2019 dated 27.01.2020 in the case of the Government of Tamil Nadu Vs. R.Elumalai.

7. Per contra, the respondents filed a counter stating that the land comprised in survey No.109/4 to an extent of 0.77 ½ cents and the land comprised in survey No.109/6 to an extent of 0.04 cents originally owned by Neelammal and Mannarammal. They did not file any returns under Section 7(1) of the Act. Hence, notice under Section 7(1) was issued on 30.08.1985. The said notice was served with one P.S.Varadhan, who is the son of the urban land owner on 12.09.1985. Since no reply was received from the urban land owner, a notice under Section 9(4) along with a statement under Section 9(1) of the Act were issued on 18.12.1986, calling for objections, if any, for the proposed acquisition of 2275 sq.mts of excess vacant land after allowing 1000 sq.mts (150 sq.mt in survey No.109/6 and 850 sq.mt in survey No.109/4) as entitlement area. It was served by affixture on 07.06.1989 in the presence of Village Administrative Officer. Thereafter, the order passed under Section 9(5) of the Act, dated 31.07.1988, to acquire the excess vacant land and sent by RPAD. It was returned and served by affixture on 13.07.1990.

8. The final statement under Section 10(1) of the Act was issued on 28.11.1990 by RPAD and returned the same with remarks 'No Such Addressee'. Hence, it was served by affixture on 15.12.1990. Thereafter, notification under Section 11(1) of the Act was issued on 31.01.1991 and published in the Tamil Nadu



Government Gazette No.14, dated 10.04.1991. The notification under Section 11(3) of the Act was issued on 29.05.1991 and published in the Tamil Nadu Government Gazette No.30 dated 07.08.1991, thereby the entire excess land vested with the Government with effect from 01.07.1991. Thereafter, the notice under Section 11(5) of the Act was issued on 30.08.1991. The possession of the excess vacant land was taken over by the Deputy Tahsildar and handed over to the Revenue Inspector, Fort-Tondiarpet Taluk on 07.08.1997. The notice under Section 12(7) of the Act was issued on 24.12.1992.

9. Heard, Mr.K.Bijai Sundar, learned counsel appearing for the petitioner and Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents.

10. A perusal of the records reveals that though notice under Section 7(2) of the Act was issued in the name of Neelambal and Mannarammal, the original urban land owners name found in the revenue records as Neelambal and Mangammal. Admittedly, no notice had sent to the original urban land owners. That apart, the said notices were received by one P.S.Varadhan on 12.09.1985. Since no reply was received from the land owners, the notice under Section 9(4) along with a statement under Section 9(1) of the Act were issued on 18.12.1986. The said notices were affixed on 07.06.1989. There is no record to show that the notices were sent by RPAD to the original land owners. Subsequent notices such as under Sections 9(5), 10(1), 11(1) and 11(3) were also served only by affixture. No notice was served on the urban land owners. Finally, the notice under Section 11(5) of the Act was issued on 30.08.1991. There is absolutely no record to show that the said notices were served on the urban land owners or interested persons who purchased the subject land. Even today, the petitioner is in possession and enjoyment of the subject property by putting up building. The said building was also assessed to the house tax and obtained electricity connection. In fact, the petitioner is regularly paying all dues to the revenue authorities concerned. Thus, it is clear that the respondents had done only desk work, no physical possession has been taken over even today.

11. Though the petitioner is a subsequent purchaser and the possession and enjoyment of the subject land is still with the petitioner. In view of Section 4 of the Repealing Act 20 of 1999, if the physical possession has not been taken over from the urban land owners or the interested persons, the entire acquisition proceedings initiated under the Tamil Nadu Urban Land (Ceiling and Regulations) Act stands abated and liable to be declared as null and void. Admittedly, the petitioner is in possession and enjoyment of the subject land. The provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999, squarely comes to the benefit of the petitioner.



12. In view of the above, the entire acquisition proceedings have lapsed in respect of the lands comprised in survey No.109/4 at Ward No.1, Village No.31, Kodungaiyur Village, measuring to an extent of 23110 sq.ft. situate at No.13/2, Anna Salai, Kodungaiyur, Chennai 600 118. The third respondent is directed to mutate the entire revenue records in respect of the subject lands in the name of the petitioner and issue patta in his favour, within a period of six weeks from the date of receipt of a copy of this order.

13. In the result, the writ petition stands allowed. No costs.

Sd/-  
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

Lpp

To

- 1.The Special Commissioner and  
Commissioner of Land Reforms,  
Chepauk, Chennai - 600 005.
- 2.The Asst. Commissioner of Urban  
Land Tax and Competent Authority  
Urban Land Ceiling Act, Madhavaram  
Now Asst. Commissioner of Urban  
Land Tax and Competent Authority  
Urban Land Ceiling Act  
Egmore-Tondiarpet Zone  
No.241, Poonamallee High Road,  
Aminjikarai, Chennai - 600 029.
- 3.The Tahsildar,  
Fort-Tondiarpet Taluk,  
Chennai - 600 003.

+1cc to Mr.K.Bijaisundar, Advocate SR.No.62458

+1cc to the Government Pleader SR.No.63025

W.P.No.7145 of 2010

RSV(CO)  
RVM(12/01/2022)