

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.Nos.2428, 2429 of 2012 and 8482 of 2014
and M.P. Nos.2, 2 of 2012 and 1 of 2014 and 1 of 2015

1.A.Devaki
2.A.Vinayaka Murthy
3.A.Ganapathy
4.A.Ammukutty
5.A.Lakshmi

: Petitioners in W.P. No.2428 of 2012

1.A.Ekavalli
2.A.Mugundan

: Petitioners in W.P. Nos.2429
of 2012 & 8482 of 2014

Vs.

1. The Secretary to the Government
Revenue Department
Government of Tamil Nadu
Fort St. George, Chennai - 600 009

2. Assistant Commissioner
Urban Land Ceiling
No.5, Sugandhi Street
Poonamallee, Chennai - 600 055

.. Respondents in all WPs

सत्यमेव जयते

Prayer in W.P. No.2428 of 2012: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent to quash the notice in form IV SR No.1261/96 7(2) SR 951/96 9(1)(4), form III SR951/96D 9(1)9(4) dated 11.6.96 issued by the 2nd respondent under the Urban Land Ceiling Act, 1978 and to direct the respondents to drop the proceeding under the said Act pertaining to the lands in Survey No.16/4, 1 Acre 37 cents and Survey No.16/7 measuring Acre 0 and 63 cents measuring about 5472.45 sq.metres in Vaiyalanallur Village, Poonamallee Taluk, Thiruvallur District, initiating further proceeding under the Urban Land Ceiling Act, 1978.

Prayer in W.P. No.2429 of 2012: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent to quash the notice in form IV SR No.1261/96 7(2) SR 951/96 9(1)(4), form III SR951/96D 9(1)9(4) dated 11.6.96 issued by the 2nd respondent under the Urban Land Ceiling Act, 1978 and to direct the respondents to drop the proceeding under the said Act pertaining to the lands in Survey No.16/4, Acre 0, 11 cents measuring about 439.39 sq.metres in Vaiyalanallur Village, Poonamallee Taluk, Thiruvallur District, initiating further proceeding under the Urban Land Ceiling Act, 1978.

Prayer in W.P. No.8482 of 2014: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents in any manner interfering with the right possession and enjoyment of the land of an extent of 7100 sq.mtrs in Survey No.10/3 at Vaiyalanallur village, Poonamallee Taluk, Thiruvallur district, in the light of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 20 of 1999 and consequently direct the second respondent herein to issue patta for the said land in the name of the petitioners.

For Petitioners : Mr.Manoharan
in all WPs
For Respondents : Ms.A.Madhumathi
in all WPs Special Government Pleader

COMMON ORDER

Since identical issues have been raised in these three writ petitions, all the writ petitions are taken up together for disposal. The petitioners in these writ petitions challenged the notification issued under Section 9(1) read with Section 9(4) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978.

2. It is the contention of the petitioners in all these cases that notice was not issued to the persons in possession of the land at any time earlier. It is also the specific case of the petitioners in all the cases that the petitioners are in possession of the lands. It is also stated that no proceeding was concluded as against the original owner of the urban land in all these cases. It is admitted that before the conclusion of the proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, the original owner died and there was no notice to the legal heirs of the original owner of the urban land.

3. Considering the admitted facts before this court and as borne out from the records on which this court is inclined to dispose of all the writ petitions, this court is of the view that, it is not necessary to go into detail. It is fairly admitted by the learned Special Government Pleader appearing for the respondents that the possession notice under Section 11(5) of the Act was not issued to the persons who are in actual possession as on date. The proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, was initiated just prior to the commencement of Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 20 of 1999.

4. Having regard to the fact that the Act itself is repealed, there is no scope for taking possession from the persons who are now in possession. This court has repeatedly held that the person in possession even if he is not a owner as on the date, is entitled to a notice and that possession cannot be taken without there being a notice issued to the person in physical possession. Having regard to the position that is well settled by this court that the Urban Land Ceiling Act shall come to an end only by taking physical possession of the land, this court is of the view that the proceedings are liable to be quashed by virtue of the Repealing Act, namely Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 20 of 1999.

5. Accordingly, these writ petitions are allowed, as the proceedings get lapsed by virtue of Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 20 of 1999. However, there is no order as to cost. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

Asr

To

1. The Secretary to the Government
Revenue Department
Government of Tamil Nadu
Fort St. George,
Chennai - 600 009

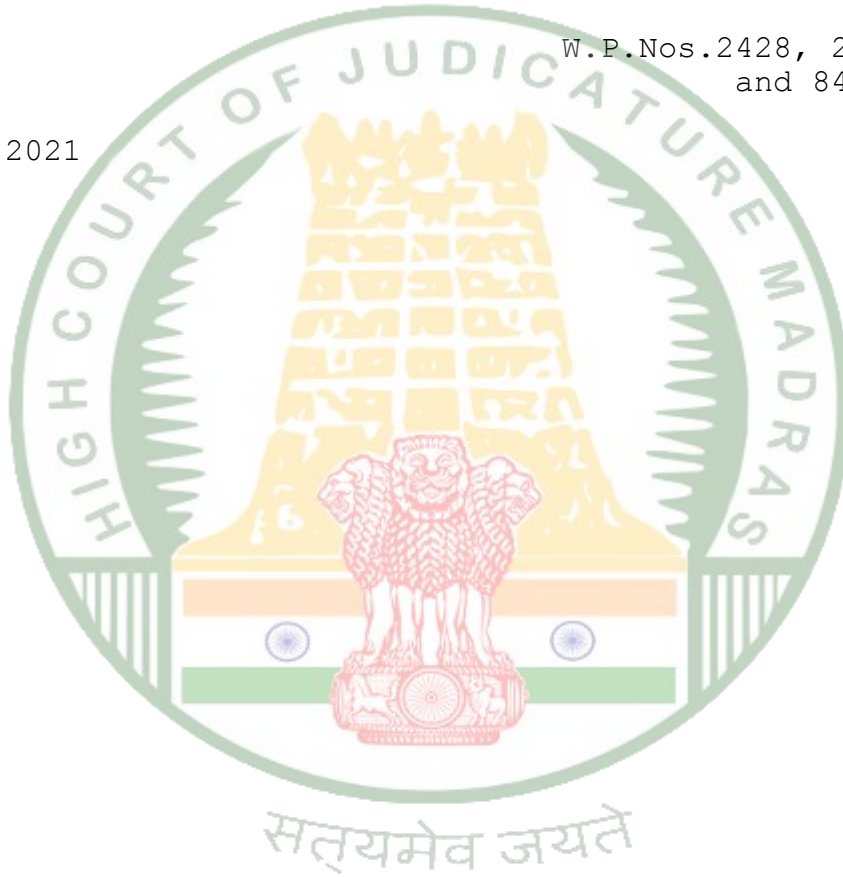
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2. The Assistant Commissioner
Urban Land Ceiling
No.5, Sugandhi Street
Poonamallee, Chennai - 600 055.

+3CCs to Mr.Manoharan S.Sundaram, Advocate, S.R.Nos.16400,
16401 & 16402.
+1cc to the Government Pleader, S.R.No.16101.

PMK (CO)
CSR 08.04.2021

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and 8482 of 2014



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