



WEB COPY



W.A.No.1872 of 2023

For the Appellants : Mr.J.Ravindran
Addl. Advocate General
assisted by
Mr.U.Bharanidaran
Addl. Government Pleader

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.J.Ravindran, learned Additional Advocate General, assisted by Mr.U.Bharanidaran, learned Additional Government Pleader for the appellants.

2. Mr.J.Ravindran, learned Additional Advocate General, submits that the writ petition ought to have been dismissed by the learned Single Judge on the ground of laches. The original writ petitioner purchased the property in the year 2007 and thereafter filed the writ petition. The process of land delivery had taken place in the year 1999. The land delivery receipt is also on record. A notice under Section 12 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 was also served upon the land owner at the relevant time. The original writ petitioner could not have challenged



W.A.No.1872 of 2023

the proceedings which had taken place much prior to the purchase of land. Learned Additional Advocate General also produced the record.

3. Upon perusal of the record, it transpires that physical possession was not taken and only symbolic possession was taken. The documents placed on record also suggest that physical possession was not taken and only symbolic possession was taken. Reference can be had to the judgment of the Supreme Court in the case of *State of Uttar Pradesh v. Hari Ram*, (2013) 4 SCC 280, wherein it has been held as under:

*"42. 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. **The 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***



WEB COPY



W.A.No.1872 of 2023

10. On failure to establish any of those situations, the landowner or holder can claim the benefit of Section 4 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 4 of the Repeal Act."*

[emphasis supplied]

4. In the light of the above, the learned Single Judge has not committed any error while passing the impugned order.

5. The writ appeal is dismissed. There will be no order as to costs. Consequently, C.M.P.No.16273 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

27.07.2023

Index : Yes/No
Neutral Citation : Yes/No
sasi



WEB COPY



W.A.No.1872 of 2023

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU,J.

(sasi)

W.A.No.1872 of 2023

27.07.2023