



WA No.1905 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.1905 of 2023
and CMP No.16402 of 2023

1. The Government of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department, Fort St. George,
Chennai 600 009.
2. The Principal Commissioner & Commissioner
of Land Reforms, Chepauk, Chennai 600 005.
3. The Assistant Commissioner/Competent
Authority, Urban Land Ceiling (Tambaram),
Karuneekar Street, Adambakkam,
Chennai 600 088.

.. Appellants

-vs-

T.Rukmani

.. Respondent

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 07.09.2021 passed in W.P.No.18340 of 2008.

For the Appellants : Mr.K.Karthik Jagannath
Government Advocate

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For the Respondent : Mr.Ramesh Venkatachalapathy
for Mr.M.Sriram

* * * * *

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The present respondent had filed the writ petition challenging the proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 and the consequent notice dated 29.04.1987 seeking delivery of possession. The writ petitioner sought for a declaration that the land fell outside the powers of the Act of 1978.

2. Mr.K.Karthik, Jagannath, learned Government Advocate appearing for the appellants, submits that compensation was also paid to the daughter-in-law of the erstwhile owner. The petitioner is the subsequent purchaser. The notice for possession was also delivered to the erstwhile owner. All these aspects ought to have been considered by the Court.



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3. We have heard Mr.Ramesh Venkatachalapathy, learned counsel for the respondent. We have perused the judgment of the learned Single Judge.

4. The proceedings of the Act of 1978 would stand abated if possession has not been taken. The provisions of the Act of 1978 and the Tamil Nadu Urban Land Ceiling and Regulation Repeal Act, 1999 will have to be considered. If on the date the Repeal Act came into force the possession had not been taken by the authorities concerned, then the land would be exempted.

5. In the present case, there is nothing on record to substantiate that actual physical possession was taken over. In absence thereof, the proceedings were not tenable. Reliance can be had to the judgment of the Apex Court in the case of ***State of U.P. vs. Hari Ram***, reported in ***(2013) 4 SCC 280***.

6. The learned Single Judge has observed in paragraph 11 as under:

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“11. That apart, mere possession claimed to have been taken by the respondents, by issuance of Notification under Section 7 (5) of the Act, cannot be accepted. All the Notifications under Section (3) of the Act and 11(5) were issued in the name of the said Isaac Samuel and subsequently, the notice under Sections 12(7) and 12(6) of the Act also were served on the said Isaac Samuel. Thereafter, his wife viz., Ragini Issac received the same. Therefore, the acquisition proceedings against the person, who is not owner, are not sustainable, as the mandatory conditions of the Act, have not been followed. Therefore, the impugned proceedings under the provisions of the Act are vitiated and they are liable to be quashed and the same are quashed.”

In light of the above, no error has been committed by the learned Single Judge. The writ appeal as such is dismissed. There will be no order as to costs. Consequently, C.M.P.No.16402 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

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