



W.P.No.8298 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.8298 of 2022 and
W.M.P.No.8274 of 2022

1. Soundararaja Babu
2. S.Vijayaraghavan
3. P.Natarajan
4. M.K.Sasidharan
5. B.Bharathi
6. C.Periasamy
7. K.Suresh & Lalitha
8. S.K.Sudhakar
9. P.Savithri
10. S.Vijaya
11. S.Vijayalakshmi
12. Arumugam (Legal Heir)
- 13.C.Rajalakshmi
14. N.Selvaraj



W.P.No.8298 of 2022

15. G.Janardhan

WEB COPY 16. C.Arvind Kumar

17. R.Sivakumar

18. K.Radha Krishnan

19. N.Muralidharan

20. P.Yuvaraj

21. S.Sankaran

22. E.Munuswamy

23. C.P.RAvichandran

24. M.S.Rajasekaran

25. A.Sankar

26. R.Lakshmanasamy

27. M.Dillibai (Legal Heir)

28. A.Vijayakumar

29. K.Ravikumar

30. M.N.Palanivelu

31. B.Subramanian

32. C.Rama Prabha

33. D.Amose

34. M.Vaidehi



W.P.No.8298 of 2022

35. Dhanalakshmi

36. R.Bhaskaran

37. M.Vaidyalingam

38. V.Radha Chandrasekaran

39. S.Balakrishnan

40. K.Baskaran

41. Mrs.Manimekala Ramkumar

42. Y.Maria Kamalam

43. Pallavan Nagar Residents' Welfare Association,
Rep.by its General Secretary, K.Natarajan,
3/48, 2nd Main Road,
Pallavan Nagar,
Thiruverkadu,
Chennai – 600077.

... Petitioners

Vs.

1. The State of Tamil nadu,
Rep.by the Secretary to Government,
Revenue Department, Secretariat,
Fort St.George, Chennai-600 009.

2. The District Collector,
Thiruvallur,
Tamil Nadu 602 001.

3. The Assistant Commissioner,
Office of Urban Land Ceiling,
Poonamallee Zone,
No.5, Sannathi Street,



W.P.No.8298 of 2022

Poonamallee, Chennai 600056.

4. The Tahsildar,
Poonamallee Taluk Office,
Tamil Nadu.

5. Pallavan Transport Corportaion,
Co-operative House Construction Society.
Pallavan Illam, Pallavan Salai,
Chennai – 600 002.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Declaration, declaring that the Petitioner's lands in Survey Nos.140/4A, 141/1, 140/1A, 141/2, 142/1B, 142/1C, 142/2, 143/2A, 150/1, 150/3, 152/3B, 150/1, 151/C, 151/1PT, 152/4A, 152/4B, at Koladi Village, Saidapet Taluk, Chengalpattu District (now in Ambattur Taluk, Tiruvallur District) are not subject to ceiling as prescribed under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, and in any event it would stand abated by virtue of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 and consequently direct the Respondents to issue physical pattas and electronic pattas to the petitioners in respect of their lands and effect necessary changes in the revenue records in respect of the Petitioners' lands together with issuing copies of such changed records to the Petitioner within the time as may be fixed by this Hon'ble Court.

For Petitioner : Mr.Rahul Balaji

For Respondents :
(for R1 to R4) : Mr.D.Ravichander,
Special Government Pleader



W.P.No.8298 of 2022

(for R5)

: Mr.G.Ameedius

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ORDER

The writ of declaration has been instituted to declare that the petitioner's land in Survey Nos.140/4A, 141/1, 140/1A, 141/2, 142/1B, 142/1C, 142/2, 143/2A, 150/1, 150/3, 152/3B, 150/1, 151/C, 151/1PT, 152/4A, 152/4B, at Koladi Village, Saidapet Taluk, Chengalpattu District (now in Ambattur Taluk, Tiruvallur District) are not subject to ceiling as prescribed under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, and in any event it would stand abated by virtue of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 and consequently direct the Respondents to issue physical pattas and electronic pattas to the petitioners in respect of their lands and effect necessary changes in the revenue records in respect of the Petitioners' lands together with issuing copies of such changed records to the Petitioner within the time as may be fixed by this Hon'ble Court.

2.The petitioners state that about 25.71 Acres of agricultural land in No.74, Koladi Village, Thiruverkadu Township, was purchased by the



W.P.No.8298 of 2022

Housing Society from between the years 1987 to 1989 and to be developed into 353 housing sites, for the benefit of the employees of the Metropolitan Transport Corporation. The plots had to be developed together with necessary roads, open space and areas earmarked for shops and park, as per layout approved by the Chennai Metropolitan Development Authority (CMDA). The plots came to be developed and the area where the housing sites are located, has been named as "Pallavan Nagar". The employees were allotted plots by the 5th respondent on 22.12.1994, pursuant to the contributions remitted by the employees/ petitioners.

3.The grievances of the writ petitioners are that the subject land was taken over under the Land Ceiling Act by the Government but no notice was served to the writ petitioners as mandated under Section 11 (5) of the Land Ceiling Act. After the Tamil Nadu Urban land (Ceiling and Regulation) Repeal Act, 1999, the lands which were not taken over possession by the competent authorities were vest with the original owners. Question arises, whether the possession has been taken by the Government or not? In this context, the Hon'ble Supreme Court of India, in the case of ***State of Uttar Pradesh Vs. Hari Ram, (2013) 4 SCC 280*** stated that :



W.P.No.8298 of 2022

WEB COPY

“ 34. Sub-section (5) of Section 10, for the first time, speaks of “possession” which says that where any land is vested in the State Government under sub-section (3) of Section 10, the competent authority may, by notice in writing, order any person, who may be in possession of it to surrender or transfer possession to the State Government or to any other person, duly authorised by the State Government.

35. If de facto possession has already passed on to the State Government by the two deeming provisions under sub-section (3) of Section 10, there is no necessity of using the expression “where any land is vested” under sub-section (5) of Section 10. Surrendering or transfer of possession under sub-section (3) of Section 10 can be voluntary so that the person may get the compensation as provided under Section 11 of the Act early. Once there is no voluntary surrender or delivery of possession, necessarily the State Government has to issue notice in writing under sub-section (5) of Section 10 to surrender or deliver possession. Sub-section (5) of Section 10 visualises a situation of surrendering and delivering possession, peacefully while sub-section (6) of Section 10 contemplates a situation of forceful dispossession.

36. The Act provides for forceful dispossession but only



W.P.No.8298 of 2022

when a person refuses or fails to comply with an order under sub-section (5) of Section 10. Sub-section (6) of Section 10 again speaks of “possession” which says, if any person refuses or fails to comply with the order made under sub-section (5), the competent authority may take possession of the vacant land to be given to the State Government and for that purpose, force—as may be necessary—can be used. Sub-section (6), therefore, contemplates a situation of a person refusing or fails to comply with the order under sub-section (5), in the event of which the competent authority may take possession by use of force. Forcible dispossession of the land, therefore, is being resorted to only in a situation which falls under sub-section (6) and not under sub-section (5) of Section 10. Sub-sections (5) and (6), therefore, take care of both the situations i.e. taking possession by giving notice, that is, “peaceful dispossession” and on failure to surrender or give delivery of possession under Section 10(5), then “forceful dispossession” under sub-section (6) of Section 10.”

4. In respect of the cases where the notice has not been served through proper mode of service, then the lands are declared to vest with the original owners. Many such persons claimed right over the property based on the Repeal Act. High Court also allowed number of writ petitions, mainly on the ground that the mode of service effected to the owners under



W.P.No.8298 of 2022

Section 11(5) of the Land Ceiling Act was improper and not in compliance

with the established procedures to be followed for service of notice under

Section 11(5) of the Land Ceiling Act. In all those cases, the government is

unable to establish that the original owners have received notice issued

under Section 11(5) of the Land Ceiling Act. Thus, the Courts held in

favour of the owners that the Government has lost its right to possess the

property since the possession notice was not served to those owners.

Accordingly, the benefit of the Repeal Act was extended to all these

owners who had not been served with the notice through proper mode of

service.

5.In the present case also, the learned Special Government Pleader

could not establish through original files that under Section 11(5), notice

had been served to the owners through proper mode of service. However,

perusal of the original file shows that regarding one person, namely

Mr.Ranga alone the notice has been served with reference to the land to an

extent of 50 sq.mts. However, the learned counsel for the petitioner

disputed the said acknowledgement produced by the respondents by stating

that the acknowledgement contains the signature of one Mr.Rangaswami

but the subject property was belonging to Mr.Ranga.

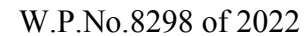


W.P.No.8298 of 2022

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6. In view of the said discrepancies, this Court is unable to accept the acknowledgement produced before this Court. In respect of all other petitioners, the respondents are unable to produce any acknowledgement to establish that the Government has taken possession. Thus, the benefit of Repeal Act is to be extended and all these writ petitioners pursuant to the orders of the Hon'ble Supreme Court and the High court in batch of writ petitions.

7. In view of the fact that the respondents are unable to establish that they have taken possession of the subject property in accordance with the provisions of the Land Ceiling Act, the petitioners are entitled to avail the benefit of the Repeal Act. Pertinently the lay out was approved by the Chennai Metropolitan development authority in the year 1993 itself and the employees of the Chennai Metropolitan Transport Corporation are in occupation of the land and they have constructed residential houses and are residing peacefully. Thus, the respondents failed to establish their case for the purpose of resumption of land and therefore, the petitioners are entitled to succeed.



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Index : Yes
Speaking Order
Neutral Citation : Yes

To

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W.P.No.8298 of 2022

S.M.SUBRAMANIAM. J.,

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W.P.No.8298 of 2022

06.07.2023