



W.P.Nos.2661 to 2664 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

W.P.Nos.2661 to 2664 of 2016 and
W.M.P.Nos.2214, 2216, 2218, 2220 of 2016

1. C.Nandakumar
 2. C.Alamelu
- ...Petitioners in W.P.2661/16

1. Radhakrishnan Died
 2. Mohana
 3. R.Jothy Priya
 4. R.Sudha
 5. R.Sasikumar
- ...Petitioners in W.P.2662/16
(P2 to P6 were substituted as LR's of P1
as per order of this Court dated 20.11.2023 in
W.M.P.No.11562 of 2023 in W.P.No.2662 of 2016)

1. N.Shankar
 2. N.Suresh
 3. N.Raju
 4. N.Rajeswari
 5. N.Mohana
 6. N.Yesoda
- ...Petitioners in W.P.2663/16

1. E.Krishnamurthy
 2. E.Boopalan
 3. E.Varada Pillai
 4. E.Ashok Kumar
 5. Amudavalli
- ...Petitioners in W.P.2664/16



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Vs.

1. The Government of Tamilnadu,
rep.by The Secretary,
Revenue Department,
Fort St.George, Chennai – 600 009.
2. The Competent Authority for Urban Land Ceiling &
Assistant Commissioner of ULT,
Poonamallee, Chennai-600056.
3. The Tahsildar,
Maduravoyal Taluk,
Maduravoyal, Chennai – 602 102. ...Respondents

Prayer in all WPs: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the first and second respondents made in the impugned Tamil Nadu Government Gazette dt.29.01.1997 pages 183 and 184 published in Part VI Section 1, No.VI (1)/152/97 and Tamil Nadu Government Gazette dt.03.09.1997 at pages 1070-1072 in Part VI Section 1, No.VI(1) 1019/97 and impugned order passed by the second respondent under sub-section (3) & (5) of Section 11 of Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, (Tamil Nadu Act 24 of 1978) in RC SR 732/95/C dt.00/08/1997 & dt.25/09/1998 respectively, and quash the same, consequently, direct the third respondent to make necessary entries in petitioner's name by cancelling the name of Government of Tamil Nadu in



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all Revenue Records, in respect of petitioner's lands comprised in Survey No.85/3-0.54 acre (0.21.50 Hectare) and S.No.86/1 – 1.96 Acre (0.79.50 Hectare), Survey No.84/1B to an extent – 0.55.50 Hectare, Survey No.84/2 – 0.52.00 Hectare and S.No.85/1-0.08.50 Hectare in all admeasuring 0.60.50 Hectare and Survey No.86/2 to an extent – 0.27.00 Hectare respectively, in Koladi Village, Saidapet/Ambattur Taluk at present Maduravoyal Ambattur Taluk, Thiruvallur District.

For Petitioners : Mr.V.Suryanarayana Reddy - in all WPs

For Respondents : Mr.S.Silambanan,
Additional Advocate General Assisted by
Mr.Yogesh Kannadasan,
Special Government Pleader – in all WPs

COMMON ORDER

These writ petitions have been filed challenging the acquisition proceedings initiated by the respondents and to extend the benefits under the Repeal Act 1999 (Act 20 of 1999) to the petitioners.

2 The issue involved in all the writ petitions is one and the same and hence all the writ petitions are disposed of by this common order.

3 Brief facts of the case is that the writ petitioners and their



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predecessors owned lands in Survey Nos.84/1, 84/2, 85/1, 85/3, 86/1 and 86/2 in Koladi Village, Maduravoyal Taluk, Thiruvallur District. The second respondent, since the said land is covered under the ceiling limit of TamilNadu Urban Land (Ceiling and Regulation) Act, 1978 (in short 'the Act'), initiated proceedings under the Act and after following the mandatory provisions of the Act, final statement under Section 10(1) of the Act was issued and the notification under Section 11(1) was also issued on 05.12.1996 and was published in Tamil Nadu Government Gazette dated 29.01.1997. Notification under Section 11(3) was issued on 05.08.1997 and was published in Tamil Nadu Government Gazette, dated 03.09.1997 and the land was vested with Government w.e.f.01.09.1997 and after serving notice under Section 11(5) of the Act, possession was handed over to the revenue authorities on 23.03.1999. The petitioners, who are in possession of the lands claimed to be the owners of the lands, filed these writ petitions challenging the acquisition proceedings.

4 Learned counsel appearing for the writ petitioners would submit that the petitioners and their predecessors purchased the properties from Ammani Ammal and Perundevi Thayara represented by their General



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Power of Attorney Agent M.K.Narayana Mani in the year 1981. The second respondent without looking into the title deeds initiated proceeding under the Act. No notice under Section 7(2) of the Act was served on the petitioners. The draft statement prepared under Section 9(1) and the draft statement together with notice referred in Section 9(4) of the Act was not served as contemplated under Rule 8(2) of the Act. The second respondent has also proceeded to effect publication in official gazette of Tamil Nadu Government under Section 11(1) of the Act and invoking Section 11(3) of the Act stated that on and from 01.09.1997, the subject lands shall be deemed to have vested absolutely in favour of the State Government.

4.1 The petitioners are still in possession of the lands and the second respondent did not send any notice on them. Further the second respondent has not initiated the proceeding against the petitioners, who are the real owners and in possession of the lands. Therefore initiation of proceedings itself is illegal.

4.2 Further the learned counsel for the petitioners contended that even now the alleged surplus lands are under the physical possession and



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enjoyment of the petitioners. Further when the Repeal Act 20 of 1999 came into existence, the entire proceedings of the second respondent got abated and hence the lands in question has to be given to the petitioners, who are in possession of the lands in question since proceedings under the Old Act got lapsed.

4.3 Therefore since the petitioners are in physical possession of the lands and no notice under Section 7(2) or statement under Section 9(4) or any notice under Section 11(5), (6) and proceedings under Section 12 of the Act was neither served to the predecessors nor the petitioners in possession, when the Repeal Act came into force, the entire acquisition proceedings got lapsed and the petitioners are entitled to get benefit under the Repeal Act. In support of his contentions the learned counsel relied on the decisions of this Court and the Hon'ble Supreme Court in the following cases.

1. (2013) 4 SCC 280 (*State of Uttar Pradesh vs. Hari Ram*)
2. 2011 3 CTC 843 (*The Govt. of Tamilnadu vs. Nandagopal & Ors.*)
3. 2023 (5) CTC 457 (*A.Chammundeswari&Ors. vs State of*



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4. 2015 (5) CTC 823 (A.N.Visalakshi & Ors. vs. The Special Commissioner, Urban Land Ceiling and Land Reforms & Ors.)

5 Mr.S.Silambanan, learned Additional Advocate General appearing for the respondents contended that since the subject lands of the petitioners were attracted under the provisions of the Act, the second respondent initiated proceedings under the Act.

5.1 The main contention of the writ petitioners is that no notice was served on the petitioners. The acquired lands stood registered in the name of Radhakrishnan the petitioner in W.P.No.2662 of 2016, who is a brother of the fathers of the other petitioners as per the revenue records.

5.2 Further since the urban land owner did not file return under Section 7(1) of the Act, notice under Section 7(2) was served on Mohana w/o. Radhakrishnan on 16.12.1992, but, they have not filed their objections and based on the report of the Deputy Tahsildar II, who inspected the



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property on 14.11.1995, the second respondent by following the procedures, passed order under Section 9(5) of the Act on 31.11.1995 declaring the subject lands as excess vacant lands. Final statement under Section 10(1) of the Act was served on 29.12.1995 to Radhakrishnan and 11(1) and 11(3) notifications were also published in the Tamil Nadu Government Gazette. Notice under Section 11(5) of the Act was served on Chandra Pillai on 25.09.1998 and possession of the excess vacant lands was handed over to the revenue authorities on 23.03.1999. Therefore all the petitioners being a family members, are well aware of the acquisition proceedings under the Act.

5.3 Even though the family members of the petitioners received notices, none of them have neither filed their objections nor filed any appeal or the details of the lands owned by them. Therefore the contentions of the petitioners are afterthought and baseless.

5.4 As far as the contentions of the petitioners that they were in possession of the lands when the Repeal Act came into force and hence they



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are entitled to the benefits under the Repeal Act, is concerned, it is already stated that after following all the procedures, possession was handed over to the revenue authorities on 23.03.1999 itself i.e. prior to Repeal Act came into force. Therefore, all the acquisition proceedings came to an end prior to Repeal Act came into force and hence the contentions of the learned counsel for the petitioners is not sustainable. All the writ petitions are liable to be dismissed.

6 Heard the learned counsel appearing for the petitioners and the learned Additional Advocate General appearing for the respondents and perused the materials available on record.

7 The main grievance of the writ petitioners is that the petitioners are still in possession of the land and statutory notice and the orders were not served on them in accordance with law and even now the alleged surplus lands are under the physical possession and enjoyment of the petitioners and hence when the Repeal Act 20 of 1999 came into existence, the entire proceedings of the second respondent got abated.



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It is to be noted that all the petitioners are family members. The deceased writ petitioner in W.P.No.2662 of 2016 is brother of fathers of petitioners' in the other writ petitions. From the submissions made by the learned Additional Advocate General and the counter filed by the official respondents and perusing the original records, it is seen that notice under Section 7(2) of the Act has been served on R.Mohana, who is wife of one of the brothers i.e. writ petitioner in W.P.No.2662 of 2016. Further final statement under Section 10(1) of the Act was served on the deceased writ petitioner, while he was alive and all the notices were addressed to the deceased writ petitioner in W.P.No.2662 of 2016. Thereafter, since after receipt of notice under Section 11(5), there was no refusal on the part of the Urban Land Owner to hand over possession of the lands acquired, the possession of excess vacant lands was handed over the revenue authorities on 23.03.1999. Therefore the contention of no notice was served on the petitioners is not acceptable with regard to the petitioners in W.P.No.2662 of 2016.



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As far as the other contentions regarding possession of acquired lands when the Repeal Act came into force, the petitioners except the contentions that they were in possession of the subject lands when the Repeal Act came into force, have not produced any documents to show that they were in possession of the lands when the Repeal Act came into force. Admittedly at the time of taking possession of the lands by the respondents, the subject property is a vacant land. When the petitioners claim benefits under the Repeal Act, it is for them to prove that they were in possession of lands acquired when the Repeal Act came into force or the acquisition proceedings under the Act was pending or physical possession was not taken. This Court perused the records carefully, which show that the acquired land at the time of taking possession is vacant site and the petitioners are not in a position to state as to whether they voluntarily handed over or they refused to hand over the possession of the acquired lands. Therefore all the proceedings were completed and possession was handed over to the revenue authorities on 23.03.1999 itself i.e. prior to Repeal Act came into force. Hence the petitioners in W.P.No.2662 of 2016



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are not entitled to the relief sought for in the writ petition. Hence the writ petition in W.P.No.2662 of 2016 shall stand dismissed.

10 A careful perusal of the original regards show that all the notices were addressed and served on the deceased writ petitioner in the above writ petition, but no notice was served on the other original owners, who purchased the properties in the year 1981 and documents to that effect have also been registered. The writ petitioners are the legal heirs of the original owners. The respondents also admitted that notices were served only on the deceased writ petitioner. Therefore, the acquisition proceedings with regard to the lands of the petitioners in other writ petitions in W.P.Nos.2661, 2663 and 2664 of 2016 is hereby quashed and accordingly the writ petitions are allowed. Consequently connected miscellaneous petitions are closed. No costs.

08.12.2023

Index: Yes/No
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The Government of Tamilnadu,
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2. The Competent Authority for Urban Land Ceiling
& Assistant Commissioner of ULT, Poonamallee,
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3. The Tahsildar, Maduravoyal Taluk,
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