



WEB COPY



W.A.No.485 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:03.08.2023

Delivered on: 22.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.485 of 2018

and

C.M.P.No.498 of 2018

1.The State of Tamil Nadu
Rep by its Secretary
Revenue Department
St.George Fort
Chennai-600 009

2.The Principal Commissioner and
Commissioner of Land Reforms
Chepauk, Chennai-600 005

3.The Competent Authority
Constituted under the Urban Land
Ceiling T.Nagar, Chennai-17

4.The Tahsildar
Mambalam Guindy Taluk
near Kasi Theatre
Ashok Nagar
Chennai-600 073

...Appellants



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Vs.

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1.S.Sivaparaman(died)

2.P.Saraswathi

3.P.Kumaran

4.Raja

5.Kavitha

...Respondents

(R4 and 5 brought on record
as LR's of the deceased R1 viz
S.Sivaparaman vide Court
order dated 23.10.2018 made
in C.M.P.No.17375/2018 in W.A.No.485/2018)

Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside
the order passed by this Court in W.P.No.10637 of 2006 dated 18.07.2007.

For Appellants : Mrs.Geetha Thamarai Selvan, Spl.G.P

For Respondents : Mr.T.L.Thirumalaisamy for R2 to 5

JUDGMENT

(Judgment of the Court was made by P.B.BALAJI,J.)

The present Writ Appeal is preferred by the State, aggrieved by the
order of the Learned Single Judge, allowing W.P.No.10637 of 2006 dated
18.07.2007.



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2. The respondents herein, as a writ petitioners, sought for declaring the lands comprised in Survey Nos. 649/18, 649/19, 649/25 bearing Plot Nos.13, 14, 15, 16, 27 28, 31 and 32 measuring 17,1790 Sq.ft, situated at V.O.C. Nagar of Velachery Village, Chennai belonging to them, not being attracted by the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 or Section 3(1)(a) of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999. The case of the respondents herein was that though proceedings were initiated in respect of the subject lands under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, with the coming into the force of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999, all the proceedings stood abated. Despite the same the respondents were not issued a patta, especially when they were in physical possession on the date of the coming into force of the Repeal Act namely Act, 20 of 1999.

3. The appellants contested the writ petition on the ground that the requisite procedure under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 was scrupulously followed and after notice having been issued under Section 7(2) of the Act on 03.11.1995, Section 9(4)



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notice was issued on 05.08.1997 and thereafter, Section 9(1) statement was prepared and by an order dated 08.09.1997, Section 9(5) proceedings were issued: a final statement was prepared on 07.10.1997 under Section 10(1) of the Act, followed up with a notification under Section 11(1) on 04.03.1998; consequential notification under Section 11(3) dated 18.06.1997, and finally a notice under Section 11(5) issued on 15.09.1998. According to the appellants subsequent to Section 11(5) notice, possession was taken over by the appellants.

4. We have heard the counsel for the appellants, Mrs. Geetha Thamarai Selvan, Special Government Pleader and Mr.T.L.Thirumalaisamy for respondents 2 to 5. We have also perused the records and also the order of the Writ Court.

5. Though it is contended by the appellants that they have taken over possession subsequent to the Section 11(5) notice issued on 15.09.1998, the records do not indicate that the mandate of Section 11(6) was followed and forcible possession was taken over from the respondents. It is now settled law that symbolic possession is insufficient and there is no



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substitute for physical possession being taken over by the State or the competent authority on its behalf, in order to enable them to contend that the proceedings under the Act of 1978, have not abated with the coming into force of the Act 20 of 1999.

6. The Learned Single Judge has infact called for the records and satisfied himself that the appellants have not taken over physical possession from the respondents and the Learned Single Judge also found that from the available documents produced before the Writ Court, that the respondents were in physical possession on the date of the Repeal Act coming into force namely 16.06.1999. Infact, the Learned Single Judge also took note of the fact that the Tahsildar also issued a patta on 23.12.1999, which is after the Repeal Act came into force. We do not find any infirmity in the findings arrived at by the Learned Single Judge.

7. Even before us, the appellants are not in a position to establish that they have complied with the mandate of Section 11(6) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. In such view of the matter all the pending proceedings stood abated on the date of coming into force



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of the Repeal Act namely on 16.06.1999. In view of the above, no
interference is warranted in the present writ appeal.

In fine, the writ appeal fails and stands dismissed. There shall be no
order as to costs.

(D.K.K.J) & (P.B.B.J)
22.08.2023

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D.KRISHNAKUMAR, J.,
and
P.B.BALAJI, J

(kpr)

Pre-delivery judgment in
W.A.No.485 of 2018

22.08.2023