



W.A.No.513 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 14.09.2023

Delivered on: 25.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.513 of 2018

and

C.M.P. No.4832 of 2018

The Competent Authority of
Urban Land Ceiling and Assistant
Commissioner of Urban Land Tax,
T.Nagar at No.84, Arcot Road,
Kodambakkam, Chennai-600 024.

.. Appellant

Vs.

Sukumar Ramanan,
represented by Power Agent
Wing Commander,
Dr. Mrs. Vijayalakshmi Ramanan (VSM).

.. Respondent

Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside
the order passed by this Court in W.P.No.27432 of 2004 dated 04.11.2004.

For Appellant : Mrs. Geetha Thamaraiselvan, Special
Government Pleader

For Respondent : No appearance [Paper publication effected]



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JUDGMENT

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

The Urban Land Ceiling Department, aggrieved by the order of the Writ Court allowing W.P. No.27432 of 2004 dated 04.11.2004, applying the repeal of the Tamil Nadu Urban Land (Ceiling and Regulation) Act by Repeal Act 20 of 1999 in favour of the Writ petitioner, is the appellant before us.

2. The Writ Court has accepted the case of the writ petitioner on the limited ground that the land allotted to the Housing Board was not used and since the same was lying vacant with compound walls on all sides, the writ petitioner remained in possession on the date of coming into force of the Repeal Act. The Writ Court proceeded to allow the writ petition holding that the proceedings stood abated.

3. The Department, aggrieved by the said order, has filed the present writ appeal on the grounds that possession had been taken over in the year 1982 itself and the Repeal Act 20 of 1999 would not in any way affect concluded proceedings and that even the compensation amount of Rs.20,625/- determined under Section 12(6) of the Act had been received by the urban land owner, through power of attorney well before the repeal



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of the principal Act and moreover the land owner had voluntarily surrendered the excess vacant land on 23.02.1982. On these grounds, the department has prayed for the writ appeal being allowed.

4. Despite notices sent to the respondent / writ petitioner, there has been no appearance made on the side of the respondent. Hence this court directed the appellant to effect paper publication. In pursuance of orders of this court, the appellant has also effected paper publication in one issue of tamil daily, Malai Malar dated 05.09.2023. Proof of such publication is filed before us.

5. We have heard Mrs.Geetha Thamaraiselvam, Special Government Pleader for the appellant. We have also perused the records including the original records and the order of the Writ Court.

6. As contended by the counsel for the appellant, it is seen from the original records that the land delivery receipt dated 23.02.1982 has been signed by the land owner Sukumar himself, evidencing the factum of possession being taken from the land owner by the Firka Revenue Inspector Mylapore, Triplicane Taluk. Even power of attorney was executed by the land owner in favour of his mother Vijalakshmi Ramanan,



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in pursuance of which the said power agent Vijayalakshmi Ramanan has sub appointed one R.Santhana Krishnan for the specific purposes of receiving 25% of the compensation amount determined by the land ceiling authorities. It is also seen that on 19.03.1982, there is an endorsement evidencing receipt of Rs.5156.25/- by means of a demand draft drawn on State Bank of India, favouring Mr. Sukumar Ramanan.

7. From the above, two things emerge. One, physical possession of excess vacant land had been voluntarily surrendered by the land owner and two, the compensation amount arrived at by the authorities has been accepted by the land owner and even a portion of the same had been received by the land owner. Both these were much prior to the repeal of the Principal Act in 1999. In view of this factual position, the petitioner cannot take umbrage under the provisions of the Repeal Act 20 of 1999 and claim that proceedings had abated and that the petitioner continued to remain in physical possession. The Writ Court had merely found that the property is laying vacant and compounded and therefore inferred that the Writ petitioner was in physical possession of the same, without adverting to the above facts borne out of records that the land owner had voluntarily surrendered possession of the excess vacant land and also received a



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portion of the compensation. Thus,for the above reasons we are constrained to interfere with the order of the Writ Court.

8. In fine, the Writ appeal is allowed and the order in W.P. No.27432 of 2004dated 04.11.2004 is set aside. There shall be no order as to costs. Consequently the connected miscellaneous petition is closed.

(D.K.K.J) & (P.B.B.J)
25.09.2023

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

(mjs)

Pre-delivery judgment in
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