



W.A.No.528 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on:25.07.2023

Delivered on: 05.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.A.No.528 of 2018

and

C.M.P.No.498 of 2018

1. The Assistant Commissioner of
Urban Land Tax and Competent
Authority of Urban Land Ceiling
Alandur Area, Sannadhi Street,
Adambakkam, Chennai – 600088.

2. The Principal Commissioner and
Commissioner of Land Reforms,
Chepauk, Chennai -600005.

3.The Government of Tamil Nadu,
Rep by the Secretary to Government,
Revenue Department, Fort St.George,
Chennai-600009.

...Appellants

Vs.

1. Mangalam

2. Visalakshi



W.A.No.528 of 2018

WEB COPY

3. Meena

4. Padmavathi

5. S.Subramaniam

6. S.Kailasanathan

7.M/s. Annai Builders and
Real Estate Pvt. Ltd
rep by its Authorised Signatory
Mrs.S.Vedavalli
No.76, Medavakkam main road
Madipakkam, Chennai-600 091
(R7 impleaded vide order of
Court dated 17.07.2023
made in C.M.P.No.20991 of 2012
in W.A.No.528/2018)

...Respondents

Prayer:- Appeal filed under Clause 15 of Letter Patent praying to set aside the order passed by this Court in W.P.No.32845 of 2003 dated 03.04.2013.

For Appellants : Mr.U.M.Ravichandran, Spl.G.P

For Respondents : R1 died

No Appearance for R2,4 to 6

JUDGMENT

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

This intra court appeal has been preferred by the statutory respondents, aggrieved by the order passed in W.P.No 32845 of 2003



W.A.No.528 of 2018

dated 03.04.2013, quashing the proceedings initiated under The Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 on the ground that it stood abated.

2. The respondents herein had filed the writ petition claiming to be the legal heirs of the owner, one Swaminathan, who had purchased the subject property in by sale deed dated 09.07.1968 and subsequently he had died intestate on 15.10.1994, after the coming into force of The Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. The said Swaminathan had filed a statement under Section 7(1) of the Act on 20.02.1977. However, the competent authority determined an extent of 15.22 sq.mts to be in excess. Section 9(5) was invoked and the said extent of 15.22 sq.mts was declared to be excess vacant land. However, the case of the writ petitioners was that they were not put on any notice about the proceedings and only when they have applied for patta, they came to know about the ceiling proceedings. The stand of the appellants before the writ court was that Section 11(1) and Section 11(3) notifications were duly issued and subsequently Section 11(5) notice also issued to the urban land owner on 25.11.1991. However, the same was returned undelivered as “No such address”. Therefore, the excess vacant land was acquired and



W.A.No.528 of 2018

possession was handed over to the Revenue Inspector, Tambaram on 22.07.1992. It is the further case of the appellants that since notices were returned undelivered, they were served by affixture and when the land owner himself had filed a statement under Section 6(1) of the Principal Act, expressing his willingness to surrender the excess vacant land as per the provisions of the Act, his legal heirs cannot maintain, leave alone succeed in the writ petition.

3. The Learned Single Judge had found that all notices sent by the appellants had been returned unserved and that no coercive steps had been taken and there had been a failure to follow the mandatory provisions of the Act and consequently the Learned Single Judge quashed the impugned proceedings and remitted the matter to the authority for fresh consideration. Surprisingly, the writ petitioners have not challenged the said order of remitting the matter to the statutory respondents, especially when their case was that the proceedings abated with the coming into force of the Repeal Act (Act 20 of 1999). Be that as it may, the statutory respondents as appellants, have preferred the present appeal on the grounds that the Learned Single Judge failed to take into account the factum of the original land owner himself filing a statement under Section 6(1) of the



W.A.No.528 of 2018

principal Act and also the factum of possession being taken over in the year 1992 and that the writ petition filed after lapse of 11 years was liable to be dismissed on the grounds of delay and laches.

4. We have heard Mr. U.M.Ravichandran, Special Government Pleader for the appellants. There is no appearance for the respondents. We have perused the records and also the order of the Learned Single Judge.

5. Recently we had an occasion to deal with the very same subject matter viz., the effect of repeal of The Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978(Act 21 of 1978) by The Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 (Act 20 of 1999)in W.A.No.1194 of 2018. We have elaborately discussed various contentions put forth on behalf of the State with regard to the entitlement of writ petitioners invoking writ jurisdiction belatedly and also the requirement to comply with the mandate of Section 11(5) and Section 11(6) of the principal Act (Act 21 of 1978). Here, admittedly pursuant to the Section 11(5) notice, there is nothing on record to show that Section 11(6) was invoked and physical possession was taken over from the respondents. The counter affidavit filed by the appellants before the writ court is also silent about any such further action pursuant to the Section 11(5) notice.



W.A.No.528 of 2018

WEB COPY

Eventhough it is contended by the Learned counsel for the appellants that when the land owner himself had declared that there was excess vacant land and available it would not be open to his legal heirs to challenge the land ceiling proceedings. We are unable to accept the said contention of the learned counsel for the appellants. Even assuming the land owner had admitted that there was an excess vacant land and had filed a declaration under Section 6(1) of the principal Act (Act of 21 of 1978), as long as physical possession had not been taken over by the State, in furtherance to proceedings initiated under Section 9, 10 and 11, it is not open to the State to contend that they would continue to have the power and exercise the available rights under the repealed Act (Act 21 of 1978). As long as the proceedings were not concluded, with the coming into force of Act 20 of 1999, repealing the principal Act (Act 21 of 1978), all such proceedings abate when it is shown that physical possession continued to remain with the land owners and had not been taken over by the State authorities. Therefore, the petitioners, as legal heirs of the deceased original land owner, were certainly well within their right to maintain the writ petition and seek for the relief as the proceedings had abated and no further steps could be taken or continued by the appellants.



W.A.No.528 of 2018

WEB COPY

6. Infact, the Learned Single Judge had chosen to remit the matter back to the authority for fresh consideration and for suitable orders to be passed by the State, taking into consideration the subsequent development namely, whether the land in question was really required after the repealing of the Act. In our considered view, such a direction was clearly unwarranted and unnecessary for the reason that when the Act itself has been repealed, the authorities were incompetent to take or proceed with any action or steps already initiated under the principal Act. Section 4 of the repeal Act (Act 20 of 1999) expressly renders all proceedings as abated and therefore we are unable to approve the view of the writ court remitting the matter for fresh consideration and disposing of the writ petition accordingly. Admittedly, the appeal is only at the instance of the State challenging the order in the writ. We have independently looked into and considered the materials on record. We have already found that Section 11(6) was admittedly not invoked and physical possession continued to be with the respondents on the date of the repeal Act coming into force, rendering all the pending proceedings, abated. The appellants are also not in a position to show from the records that the procedure contemplated pursuant to Section 11(5) notice has been followed and the land owner was



W.A.No.528 of 2018

WEB COPY

physically and forcibly dispossessed. In fact it is seen from the admitted stand taken by the appellant that with regard to possession being with the land owner, it is stated that such possession would tantamount to an encroachment of Government land like “Poramboke” land. Therefore we have no difficulty in holding that physical possession of the subject lands continued to remain with the respondents on the date of the repeal Act coming into force. Moreover the Writ Court also recorded a finding that possession of the property had not been taken over. Thus, in view of Section 4 of the repeal Act, all pending proceedings stand abated.

7. In view of the conclusions we have arrived herein above, we hold that the proceedings stand abated and no further direction need be issued in this regard. Consequently, the Writ Appeal is disposed of. There is no order as to costs. Consequently, connected Civil Miscellaneous Petition is closed.

(D.K.K.J) & (P.B.B.J)
05.09.2023

Internet : Yes
Index: Yes/No
Neutral Citation: Yes/No



WEB COPY



W.A.No.528 of 2018

D.KRISHNAKUMAR, J.,
and
P.B.BALAJI, J
(mjs)

Pre-delivery judgment in
W.A.No.528 of 2018

05.09.2023