



W.P.No.28575 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.28575 of 2016
and
W.M.P.No.24656 of 2016

1.R.Rajeshwari
2.G.Meenambal
3.Kamala Bindu
4.Senthil Kumar
5.Vinoth Kumar
6.Omaniammal
7.G.Ponnazhaghu

... Petitioners

versus

1. The Secretary,
The Government of Tamil Nadu,
Revenue Department,
Fort St.George Fort,
Secretariat, Chennai – 600 009.
2. The Special Commissioner and
Commissioner for Urban Land
Ceiling and Tax,
Chepauk, Chennai – 600 005.
3. The District Collector,
Thiruvallur District,
at Thiruvallur.



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4. The Assistant Commissioner,
Urban Land Tax at Poonamallee,
Chennai – 600 056.
5. The Tahsildar,
Maduravoyal Taluk,
Thiruvallur District
at Valasarawakkam,
Chennai – 600 087.
6. The Helpage India,
represented by its
Deputy Director,
No.3-C, Thayagaraya Complex,
Door No.853, Poonamallee High Road,
Kilpauk, Chennai – 600 010.
7. The Tamil Nadu State Federation of Deaf
represented by its Secretary,
No.48, Santhome High Road,
Chennai – 600 028.

...Respondents

Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Declaration, declaring that the proceedings initiated by the fourth respondent in Na.Ka.No.3398/89 D dated 28.02.1990, as null and void, consequently the first respondent passed G.O.Ms.No.251, dated 24.03.1994 is inoperative, Ultra Vires and unconstitutional and have no statutory effect in view of Section 4 of the Repeal Act.

For Petitioners : No appearance



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For Respondents : Mr.P.Kumaresan
Additional Advocate General
assisted by Mr.V.Veluchamy
Additional Government Pleader
for R1 to R5

ORDER

The Writ Petition has been filed seeking for issuance of a Writ of Declaration, declaring that the proceedings initiated by the fourth respondent in Na.Ka.No.3398/89 D dated 28.02.1990 are null and void, and consequently, the first respondent passed G.O.Ms.No.251, dated 24.03.1994 as inoperative, Ultra Vires and unconstitutional and have no statutory effects in view of Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 20 of 1999 [hereinafter referred to as 'Repeal Act']

2. When the matter came up for hearing on 31.10.2023, there was no representation for the petitioners and the matter was directed to be listed on 10.11.2023 and also this Court directed the respondents to produce the relevant records for taking possession of the property in question prior to the Repeal Act that came into force.



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3. Today, when the matter is taken up for hearing, there is no representation for the petitioners.

4. The learned Additional Advocate General appearing for respondents 1 to 5, assisted by the learned Additional Government Pleader submitted that the original owner of the subject properties remained *ex-parte* in all the proceedings. The Government had acquired the subject properties under due process of law. Since it is a vacant land and the original owner has already abandoned, they have taken possession of the subject properties and subsequently, allotted the same to respondents 6 and 7. Even before the enactment of the Repeal Act, the subject properties were handed over to the allottees, during the year 1996 itself and hence, Section 4 of the Repeal Act is not be applicable. Thereafter, respondents 6 and 7 filed a writ petition in W.P.No.15200 of 2007 before this Court, for taking delivery of the possession from the encroachers, namely the writ petitioners. This Court, vide order dated 28.01.2013, directed the third respondent/District Collector, Thiruvallur to take action against the encroachers and to recover the properties and handed over the said properties to respondents 6 and 7.



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Hence, the writ petitioners being subsequent purchasers, have no *locus-standi* to question the acquisition proceedings or the allotment orders issued by the Government. He further submitted that the writ petitioners filed the present writ petition only in order to avoid delivery proceedings. Though the writ petitioners have filed the present writ petition, but they are not interested to prosecute this writ petition and hence, there is no representation for the petitioners.

5. It is seen from the Records that the writ petitioners are not in possession of the subject properties when the date of the Repeal Act came into force in the year 1999. After completion of the provisions of the said Act, the lands vested with the Government. Subsequently, the Government allotted the subject properties to respondents 6 and 7. Therefore, the writ petitioners are nothing but the trespassers and already they are parties to the other writ petitions.

6. Under the above facts and circumstances, since the petitioners have not produced any document to prove their claim, but as on date when the



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Repeal Act came into force, they are not in possession of the subject property. Despite sufficient opportunity having been given to the petitioners to establish their case, they have not come forward to argue this writ petition. Prior to the Repeal Act coming into force, the acquisition proceedings had already been completed and no proceeding under the old Act was pending, thereby, possession was taken and assign to third party. Hence, this writ petition is liable to dismissed.

7. For the foregoing reasonings, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

10.11.2023

Speaking/Non-speaking order

Index:Yes/No

Neutral citation : Yes/No

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WEB COPY

To

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P.VELMURUGAN, J.

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