



W.A.No.553 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.A.No.553 of 2021

1. The Special Commissioner Land Reforms
Chepauk, Chennai – 600 005.
2. The Assistant Commissioner /
Competent Authority
Urban Land Ceiling
Karneeshwarar Koil Street
Alandur, Chennai.
3. The Tahsildar
Pallavaram, Chennai.
4. The Sub-Registrar
Kundrathur.

.. Appellants

Vs.

1. E.Vijayakumari
2. C.Kalai Selvi
3. C.Prabhu
4. K.C.Priya
5. M.S.Elavarasan
6. M.S.Ramamurthy

.. Respondents

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Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 12.11.2019 in W.P.No.1659 of 2018.

For the Appellants : Mr.V.Kumaresan
Additional Advocate General
Assisted by Mr.KM.D.Muhilan
Government Advocate

For the Respondents : Mr.V.Ramesh
for Mr.T.Thiagarajan

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

The present respondents have filed a writ petition in W.P.No.1659 of 2018 thereby assailing the order of the Assistant Commissioner / Competent Authority, Urban Land Ceiling, passed under Section 11(5) of the Tamil Nadu Urban Land Ceiling Act.

2. It is the case of the present respondents that a theatre was constructed in the year 1986 after obtaining permission from the Executive Officer and the theatre is running since 1986 on the land. The remaining 3.26 acres of land was sold to three parties as residential plots after obtaining permission for layout.

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3. The present respondents contended in the writ petition that as per the proceedings of the authority dated 26.12.1997, the land in S.No.122/2B was not registered on the ground that it was acquired under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. The said proceedings was challenged before the learned Single Judge.

4. The learned Single Judge allowed the writ petition and quashed the impugned order holding that the proceedings initiated by the respondents of the original writ petition under the Land Ceiling Act do not culminate in vesting of the land with Government. Hence, there is no legal impediment for the original writ petitioners / the present respondents to deal with the subject land in accordance with law. The said order is assailed in the present writ petition.

5. Learned Additional Advocate General submits that prior to the repeal of the Urban Land Ceiling Act, possession was already taken by the appellants in the year 1998 and a receipt to that effect is also



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placed on record. According to the learned Additional Advocate General, once possession is taken before the repeal of the Act, the repeal of the Act would not affect the right of the State. This aspect has not been considered by the learned Single Judge of this Court while passing the impugned order. Notices were issued under Section 9. No objection was raised and thereafter, possession was taken by the present appellants from the present respondents and documents to that effect is also placed on record.

6. Learned Senior Counsel for the original writ petitioners / present respondents submits that the original writ petitioners were running a theatre in the writ land. The possession was with the original writ petitioners. The original writ petitioners also filed an appeal before the Appellate Authority. A stay was granted by the Appellate Authority for taking possession. Thereafter, proceedings were dropped by the Appellate Authority on the ground that the Urban Land Ceiling Act was repealed. The learned Single Judge has considered the said aspect.



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7. We have considered the submission that the Urban Land Ceiling Act stands repealed with effect from 16.06.1999. Admittedly, the land was not a vacant land. The only contention is that the present appellants have taken possession of the land before the repeal. In the documents, it appears as only a paper possession and not a *de facto* possession. The Apex Court, in the case of **State of Uttar Pradesh vs. Hari Ram** reported in **2013 4 SCC 280** has observed that a possession can be a peaceful possession or forceful dispossession and the same ought to be in the manner provided under the enactment. There is nothing on record to show that the theatre of the original petitioner was taken in possession by the State authorities either peacefully or forcibly. The learned Single Judge has arrived at the finding of the fact that the theatre was running at the writ property and in the year 2003 also, in the appeal proceedings, a stay was granted in the possession. The Appellate Authority, thereafter disposed of the proceedings on the ground that the Urban Land Ceiling Act stands repealed.



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8. The land was not a vacant land. The finding of the fact has been arrived at by the learned Single Judge on the basis of documents and statements on record. The judgment does not appear to be perverse.

9. In the light of that, no case for interference is made out. Accordingly, the appeal as such is disposed of. There will be no order as to costs. Consequently, C.M.P.No.2204 of 2021 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No

Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKEVALU, J.

(kpl/drm)

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