IN THE HIGH COURT OF JUDICATURE AT MADRAS

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| **RESERVED ON** | : | 27.11.2023 |
| **PRONOUNCED ON** | : | 19.12.2023 |

CORAM:

THE HONOURABLE MR. JUSTICE **P.VELMURUGAN**

**W.P.No.2609 and 2610 of 2018**
**and**
**W.M.P.Nos.3226 & 3227 of 2018**

Mohammed Riyasatullah ...Petitioner in both the WPs

Vs.

1. State of Tamilnadu,
   Rep. by its Secretary,
   Revenue Department,
   Fort St. George, Chennai – 9.

2. The Collector,
   Collector's Office,
   No.62 Rajaji Salai,
   Chennai – 600 001.

3. The Tahsildhar,
   Tambaram Taluk,
   Tambaram, Chennai.

4. The Assistant Commissioner (ULT),
Alandur (E), No.153,
Karuneegar Street,
Adambakkam,
Chennai – 600 088. ...Respondents in both the WPs

**Prayer in both the WPs:** Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus directing the respondents herein to treat the proceedings initiated under Tamilnadu Urban Land Ceiling and Regulation Act, 1978 against the petitioner properties at Door No.3/275, Pachiappan Main Road, Periyar Salai, Palavakkam, Chennai – 41 in Survey No.91/1, Palavakkam Village (Earlier Tambaram Taluk now Sholinganallur Taluk) and Door No.3/308, A.V.P.Aasai Thambi Street, Periyar Salai, Paalavakkam Village, Chennai – 41 in Survey No.91/1 respectively as abated under Section 4 of the Repeal Act 20 of 1999.

For Petitioner : Mr.G.Vijay Anand – in both the WPs

For Respondents : Mr.P.Gurunathan,
Addl. Government Pleader in both WPs

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## COMMON ORDER

Both the writ petitions have been filed by the same writ petitioner seeking to quash the proceedings initiated under the TamilNadu Urban Land (Ceiling and Regulation) Act, 1978 (in short 'the Act'),

**2** Learned counsel appearing for the petitioner submitted that he derived title of the subject properties through settlement deeds in the year 2015 and 2016 respectively. The said properties were originally owned and possessed by the petitioner's family from 1996 onwards and the petitioner constructed a School providing education for children numbering about 290 from LKG to V Standard, which is known as IQRA R Nursery and Primary School. The School had been given building license and sanitary certificate. The petitioner has been paying property tax, water tax and electricity bill also. The school is approved and affiliated to Director of Elementary school Department and is an unaided institution. While that being so, in the year 2017 when the petitioner approached the third respondent for transfer of patta from the original name i.e. Mr.Kathirvel Gramini to the petitioner's name, to the shock and surprise, the authorities informed that the application of the petitioner cannot be considered since the property was being shown as a Government property in the computer entry of Revenue Department and the entry was based on acquisition of property under the Act since the land was excess to the ceiling limit.

**3** Learned counsel for the writ petitioner further contended that no notice either to the petitioner or to his vendors was served. Further the petitioner and his predecessors in title for the last several years and till date have been enjoying uninterrupted physical possession over the said property. The petitioner also submitted application before the fourth respondent for regularizing the above said property under 'Innocent Buyers Scheme', which was rejected quoting the cut off date 26.09.2008.

**4** Further on the date of ing Act came into force, the petitioner is in physical possession of the property and hence the proceedings under the Act got abated and the petitioner is entitled to retain the possession of the lands.

**5** Learned Additional Government Pleader appearing for the respondents contended that since the subject lands were attracted under the provisions of the TamilNadu Urban Land (Ceiling and Regulation) Act, proceedings under the Act was initiated by issuing notice under Section 7(2) of the Act to the urban land owner one Kathirvel Gramini to the extent of 1.94½ acres in Survey No.91/1 of Palavakkam Village and the same was duly served on the urban land owner on 09.03.1989. The urban land owner has also appeared and actively participated in the acquisition proceedings. After following due process of law, orders under Section 9(5) of the Act was issued on 30.09.1989 declaring the subject land as excess land and the same was served on the urban land owner by affixture on 28.02.1990. Thereafter notification under Section 11(1) and 11(3) of the Act were issued and the same are published in Government Gazette dated 26.06.1991 and 12.02.1992. Accordingly excess land was vested with the Government w.e.f.31.01.1992 and thereafter since the urban land owner refused to receive the notice under Section 11(5) of the Act, after serving the same by affixture, possession was taken and handed over to the revenue authorities on 07.09.1993 and the same was reported to the Sub Registrar, Adayar, by the competent authority vide letter No.790/1992/E dated 09.09.1993 in form No.XVII and there by revenue records also changed in the year 1993 itself.

**6** Learned Additional Government Pleader further submitted that the petitioner derived 8533 sq.ft. vide settlement deed No.3035 of 2015 dated 21.04.2015 and 800 sq.ft. vide sale deed No.3745 of 2016 dated 26.05.2016. As per Section 6 of the Act, any sale of excess vacant land effected after 03.08.1976 is null and void. All the sales with respect to the subject lands have been effected only after the commencement of the Act and after handing over possession of the excess vacant land to the revenue authorities on 07.09.1993. Therefore the vendor of the petitioner and the predecessors have no better title to convey the land and hence the settlement deeds in favour of the petitioner is not valid.

**7** Further all the notices were issued/served in the name of urban land owner Kadirvelu Gramani as per the revenue records and hence no need to send any notice to the subsequent purchasers. All the acquisition proceedings attained finality even in the year 1993 i.e. well before the Repeal Act came into force. Therefore when the possession was taken and handed over to the revenue authorities as early as on 07.09.1993 and necessary changes also made in the revenue records, subsequent purchase should only be treated as encroachment. Further the petitioner requested to consider his claim under 'Innocent Buyers Scheme', which could not be considered, since he derived title through two settlement deeds as stated supra in the year 2015 and 2016, whereas as per the scheme the lands purchased before 26.09.2008 could only be regularized under the 'Innocent Buyers Scheme'. Therefore at any angle the claim of the petitioner could not be entertained and the writ petitions are liable to be dismissed.

**8** Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

**9** Admittedly the subject property belong to one Kthirvel Gramini and records also clearly shows that notice under Section 7(2) was served on the original owner and he also actively participated in the acquisition proceedings. Subsequently after completing acquisition proceedings, possession was taken over on 07.09.1993 and handed over to the revenue authorities and the same was reported to the Sub-Registrar, Adayar, by the competent authority vide letter No.790/1992/E dated 09.09.1993. Therefore all the acquisition proceedings were attained finality in the year 1993 itself and the original owner did not challenge the same till the Repeal Act came into force. Once the land vested with the Government, the original owner himself has no alienable interest over the property.

**10** All the sale deeds in favour of the petitioner are of the year 2015 and 2016 and even the vendor of the petitioner and their vendors also purchased the property only in the year 1994, whereas acquisition proceedings attained finality in the year 1993 itself. Further it is seen from the records that the petitioner filed application before the fourth respondent under the 'Innocent Buyers Scheme'. Admittedly the settlement deeds in favour of the petitioner are after the cut off date i.e. 26.09.2008 and hence the application of the petitioner under the 'Innocent Buyers Scheme' also could not be considered.

**11** The main grievance of the writ petitioner is that the petitioner is still in possession of the land and statutory notice and the orders were not served on him in accordance with law and even now the alleged surplus lands are under the physical possession and enjoyment of the petitioner and hence when the Repeal Act 20 of 1999 came into existence, the entire proceedings of the second respondent got abated. It is to be noted that the petitioner except producing sale and settlement deeds from the year 1994 to 2016, has not produced any other documents to show that he was in possession of the land when the Repeal Act came into force. It is the contention of the petitioner that he is running a Primary School in the subject lands for nearly 30 years and he obtained building license and sanitary certificate from the competent authorities. But to prove the same the petitioner has not produced any document and none of the documents show the petitioner was in possession when the Repeal Act came into force. All the documents regarding possession was obtained after the Repeal Act came into force and not before that.

**12** In view of the foregoing observations, this Court does not find any reason to entertain the writ petitioner's claim especially when the respondents proved the vital fact that all the acquisition proceedings were completed much prior to the Repeal Act came into force and further the writ petitioner was not at all in possession of the subject property and he got the property through the settlement deeds in the year 2015 and 2016 only. Accordingly the writ petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

**19.12.2023**

Index: Yes/No
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To

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   Chennai – 9.

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**P.VELMURUGAN, J.,**

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**Pre-Delivery Orders in**
**W.P.No.2609 and 2610 of 2018 and**
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