



WA No.383 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.383 of 2023
and C.M.P.No.3714 of 2023

1. Siddharth Sukumar
2. S.Bharath Sukumar

.. Appellants

-VS-

1. The Special Commissioner and
Commissioner of Land Reforms,
Chepauk, Chennai 600 005.
2. The Assistant Commissioner for
Urban Land Tax cum Competent
Authority, Alandur, Chennai 600 088.

.. Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 14.07.2022 passed in W.P.No.28153 of 2007.

For the Appellants : Mr.B.Kumar

For the Respondents : Mr.K.Karthik Jagannath
Government Advocate

* * * * *



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JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.B.Kumar, learned counsel for the appellants and Mr.K.Karthik Jagannath, learned Government Advocate for the respondents.

2. The appellants' father, M.N.Sugumaran, had filed the writ petition seeking declaration that the land to an extent of 0.86 acres comprised in S.No.138/2 situated at Madipakkam Village, Tambaram Taluk, Kancheepuram District is exclusive land of the writ petitioner in view of the Repeal Act 20 of 1990.

3. The learned Single Judge dismissed the writ petition. Aggrieved thereby the present appeal.

4. The learned counsel for the appellants strenuously contends that the appellants' father was never served with a notice under Section 11(5) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. The possession contemplated is not a paper possession



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but actual physical possession. For the said purpose, notice under Section 11(5) of the said Act has to be given to the concerned person. No such notice was served upon the appellants. In absence thereof, the appellants are entitled to the benefit of the Repeal Act 20 of 1999. The learned counsel submits that in an appeal filed before the Special Commissioner and Commissioner of Land Reforms, Chepauk, the final statement under Section 10(1) of the Act was assailed. The appeal was not on the ground that the possession was not taken but was only challenging the order of declaring the land as a surplus land. The writ petition bearing W.P.No.20180 of 2007 against the order of the appellate authority was also confining to the order of the appellate authority and not beyond that. The writ petitioner claims to be the owner of the agricultural land. Whereas, in the instant writ petition, the writ petitioner seeks the benefit of the Repeal Act. This aspect has not been considered by the learned Single Judge.

5. The learned Government Advocate supports the order of the learned Single Judge.



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6. On 27.11.1997, declaration under Section 11(3) of the Act was made whereby the land vests with the Government. The writ petitioner's land was declared as surplus under the order of the competent authority. The writ petitioner challenged the order by filing an appeal under Section 33 before respondent No.1. The appeal was dismissed under order dated 30.07.1992. After lapse of 15 years, the writ petitioner filed writ petition bearing W.P.No.20180 of 2007 before this Court. This Court dismissed the writ petition. While dismissing the writ petition, this Court specifically observed that the petitioner has not filed any proof of evidence to show that he is in possession of the land. Under such circumstances, there is no merit in the writ petition and the writ petition was dismissed. The said finding has become final. Moreover, in 2007 when the writ petitioner filed the writ petition challenging the order of the appellate authority, he did not contend about the benefit of the Repeal Act 20 of 1999 though the declaration under Section 11(3) of the Act was issued on 27.11.1997.



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7. The writ petitioner could get the benefit of the Repeal Act 20 of 1999 only if he demonstrates that he was in possession of the property. However, the finding of the learned Single Judge of this Court in W.P.No.20180 of 2007 that the writ petitioner could not demonstrate that he is in possession of the subject property has become final and the same is binding on the party.

8. In light of the above, the learned Single Judge has not committed any error while passing the impugned order.

The writ appeal as such is dismissed. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No
Neutral Citation : Yes/No
sra

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