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W.A.No.2377 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

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**THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

W.A.No.2377 of 2022

1. The Government of Tamil Nadu,
represented by the
Special Commissioner & Commissioner
of Land (Urban Land Ceiling),
Ezhilagam, Chennai-600 005.

2. The Assistant Commissioner of
Urban Land Ceiling & Urban
Land Tax, Collectorate Complex,
Coimbatore-18.

... Appellants

Vs

1.Mrs.Swarnam

Mrs.Rajeswari (died)

2. Mrs.Indirani

Mrs.C.Meenakshithai (died)

3.Gnanasambandam

4. Mr.G.Vignesh

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5. Miss.Divyasandhini
(Respondent Nos.3 to 5 are the
Legal Heirs of deceased Respondent
Mrs.Rajeswari)

6. Mr.K.C.Arunagiri

7. Mr.C.Jegadeesan

8. Mr.C.Senthil Kumaran

9. Mr.C.Keethirajan

10.Mr.K.C.Balakamaraj

11.Mr.C.Adhipathi
(Respondents 6 to 11 are
the Legal heirs of deceased
Mrs.Meenakshithai)

... Respondents

Prayer: Writ Appeal is filed under clause 15 of the Letter Patent against the order dated 10.10.2014 passed by the learned Single Judge in W.P.No.12077 of 2006.

For Appellants : Mr.V.Arun
Additional Advocate General
for Mr.Geetha Thamarai Selvn
Additional Government pleader
For Respondents : Mr.Vijayakumar
Senior Counsel (R1,R2, R4 & R5)
Mr.S.Ramachandran (R6 to R11)



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The present Appeal has been preferred against the order of the learned Single Judge made in W.P No.12077 of 2006 dated 10.10.2014, in setting aside the Impugned Proceedings of the 2nd Appellant 26.04.1991.

2. Mr.Arun, learned Additional Advocate General appearing for the Government would submit that the proceedings for acquiring the land has been initiated in terms of Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (in short 'the Act') and the Writ Petitioners who are the 3rd parties are having no right to purchase the properties from the vendors. The possession of the excess vacant land was handed over to the Revenue Department on 11.12.1996 and therefore the Writ Petition, which was filed after a lapse of 10 years from the date of acquisition is not maintainable in the eye of law.

3. During the pendency of the proceeding, Act was repealed and the Writ Petition filed by the Respondents/Writ Petitioners was allowed on 10.10.2014. The relevant paragraphs of the said order are extracted below:

“17. As the matter of fact, the Hon'ble Apex Court



has in the judgment reported in 2012 (8) MLJ 515 (SC) (Tukaram Kana Joshi and others Vs.M.I.D.C. and others) while dealing with the appeals filed by the land owners claiming compensation for the lands taken over by the respondents authorities, without resorting to the method prescribed by law held that the lands are taken over without resorting any acquisition proceedings. The question arose before the Hon'ble Apex Court is whether the State can be allowed to deprive the appellants' property without adhering to law. The Apex Court having found that the appellants, who are illiterate and articulate persons have been deprived of the right to property, is pleased to hold that it is a clear violation of Article 21 (1) of the Constitution of India. The same view is applicable herein wherein on the failure of the respondents to prove dispossession of the landholders in the manner known to law, the petitioners are entitled to the benefits of the Repeal Act, in and under which the proceedings taken under the Old Act, where the possession remains with the landholder, stands abated. The petitioners are hence entitled to the relief as sought for herein.

8. In the result, both the writ petitions are allowed as prayed for by setting aside the impugned proceedings by treating the same as abated in respect of land in Survey Nos.485/2 and 486/1, measuring an extent of 9650 sq.mts. and 14000 sq.mts. Respectively, situated at Vellalore Village, Coimbatore District."

4. The Appellants have taken their sweet time to prefer the Appeal.

However, delay has been condoned and the matter has been listed for hearing today.



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5. Mr.Vijayakumar, learned Senior Counsel appearing for the Respondents herein submitted that learned Single Judge had allowed the Writ Petition, by setting aside the impugned Proceedings in the Writ Petition as abated. He further submitted that there was an order in respect of regularisation of the lands in question, as early as on 11.01.2021, issued by the 2nd Appellant herein to the Writ Petitioner viz., Mrs.Swarnam, who is the 1st Respondent herein.

6. In view of the fact that the impugned proceedings got abated, as observed by the learned Single Judge, we are of the opinion that the subsequent order of regularization dated 11.01.2021 has nothing to do with this Appeal. We cannot go into the said issue in the Writ Appeal as it is only academic. It is needless to mention that if the Government wants to acquire the land, it is open to them to initiate a fresh proceedings. In case of any such initiation to acquire the land by the Government, it is for the Writ Petitioner to defend the same.



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S.VAIDYANATHAN, J.
and
J.SATHYA NARAYANA PRASAD, J.

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7. With the above observation, this Writ Appeal stands disposed of. No costs.

(S.V.N.J.) (J.S.N.P.J.)
23.01.2023

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Speaking order/Non-speaking order
Index: Yes/No
Internet: Yes/No

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