



W.P(MD)No.20620 of 2014  
*and*  
WP(MD)No.17791 of 2015

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 29.09.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)Nos.20620 & 2014 & 17791 of 2015**

**and**

**M.P.(MD)No.1 of 2014**

**and**

**M.P.(MD)Nos.1 & 2 of 2015**

in WP(MD)No.20620 of 2014 :-

Mohammed Gouse Dawood

... Petitioner

**Vs.**

1.The Secretary to Government,  
Revenue Department,  
Government of Tamil Nadu, Chennai.

2.The Principal Secretary and  
Commissioner of Land Reforms,  
Chepauk, Chennai.

3.The Assistant Commissioner (Land Reforms),  
Tirunelveli.

4.G.Sakthivel Murugan

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the petitioner is entitled to get back the lands in Town Survey Numbrs 836/A3 and



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836/A4, Suthamalli Village, Tirunelveli Taluk, as per the provisions of the  
Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999.

For Petitioner : Mr.T.A.Ebenezer

For Respondents : Mr.S.Ra.Ramachandran  
Additional Government Pleader for R1 to R3

Mr.V.Perumal for R4

In W.P.(MD)No.17791 of 2015 :-

G.Sakthivel Murugan

... Petitioner

**Vs.**

- 1.The Assistant Commissioner Urban Land Ceiling and Urban Land Tax,  
Collectorate Building, Madurai.
  - 2.The Revenue Divisional Officer, Collectorate Complex, Kokkirakulam,  
Tirunelveli District.
  - 3.Tahsildar, S.N.High Road,  
Tirunelveli Taluk, Tirunelveli District.
- .. Respondents.

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari Mandamus, to call for the records of the 1st respondent in A4/114/12 dated 03.12.2014 (erstwhile Assistant Commissioner Land Reforms, Tirunelveli), quash the same and consequently, direct the respondents to remove the entry as urban ceiling land in respect of Survey No.836/A3 and 836/A4 at Suthamalli Village, Tirunelveli District to an extent of 3 acres 61 cents.



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For Petitioner : Mr.V.Perumal  
For Respondents : Mr.S.Ra.Ramachandran  
Additional Government Pleader

### COMMON ORDER

Heard both sides.

2.I make it clear at the very outset that rival claim between Mohammed Gouse Dawood and Shakthivel Murugan will not be gone into in these writ proceedings. They will have to be adjudicated elsewhere before the jurisdictional civil Court.

3.The only issue I will go into and consider is if the proceedings initiated under Urban and Land (Ceiling and Regulation)Act, 1978 had abated or not. The core arguments of the learned counsel for the petitioner is that there is nothing on record to show that proceedings under Section 11(6) of the Act have been taken. The stand of the Additional Government Pleader is that on 29.10.1983, action under Section 11(6) of the Act was taken and the petition mentioned land was handed over by the Special Deputy Tahsildar ULC, Tirunelveli and the Revenue Inspector, Tirunelveli. This fulfills the statutory mandate and that thereafter, the land vested absolutely in the government free of all encumbrance. He



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also would add that mutation must be made in favour of the Government in the revenue record.

4. Section 11(5) & (6) of the Act read as follows:-

“11. Acquisition of vacant land in excess of ceiling limit:-

(5) Where any vacant land is vested in the State Government under sub-section(3), the competent authority may, by notice in writing, or any person who may be in possession of it to surrender or deliver possession thereof to the State Government or to any person duly authorized by the State Government in this behalf within thirty days of the service of the notice.

(6) If any person refuses or fails to comply with an order made under sub-section (5), the competent authority may take possession of the vacant land or cause it to be given to the State Government or to any person duly authorized by the State Government in this behalf any may for that purpose use such force as may be necessary

This provisions have been considered by the Hon'ble Division Bench in the decision reported in (2012) 6 MLJ 273(Government of Tamil Nadu rep. by its Commissioner and Secretary to Government Vs. Mecca Prime Tannery rep. by its Managing Director). Paragraph Nos.32, 33, 34 & 35 of the Act are as follows:-

“32. Section 11(3) of the Act very clearly provides that after the notification is issued under Section 11 declaring the excess vacant land, the same shall be deemed to have been acquired and vested in the State Government, free from all encumbrances. Section 11(3), therefore, does not provide that after the notification, the State Government shall be deemed to have come into possession of the land so declared as excess



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land. After such vesting of the land in the State under [Section 11\(3\)](#), the State has to initiate action for taking possession of the land, which is evident from the provisions contained in [Section 11\(5\)](#) and [Section 11\(6\)](#) of the Act. [Section 11\(5\)](#) contemplates issuance of notice by the State Government to any person, who may be in possession, to surrender and deliver possession of the land to the State Government or any person duly authorised by the State Government in this behalf. If the owner of the land or the person in possession refuses or fails to deliver possession of the land to the competent authority, the latter may take possession of the land even by using force, if necessary, as contemplated under [Section 11\(6\)](#) of the Act.

33. The phrases shall be deemed to have been acquired and shall be deemed to have been vested absolutely in the State Government occurring in [Section 11\(3\)](#) of the Act, in our considered opinion, mean that the right, title and interest in respect of the land shall be deemed to have been vested in the State Government and not possession of the land. After the right, title and interest is vested in the State Government by notification under [Section 11\(3\)](#), the State Government has to take further action for taking possession of the land, if the land owner or any person in possession refuses or fails to surrender or deliver possession of the land so vested in the Government.

34. There are cases where after notice under [Section 11\(5\)](#) of the Act, the land owner delivers possession of the land and acknowledges the same in writing, and the State, after taking possession of the land so delivered voluntarily by the land owner, either comes into possession of the same or allots those lands to other persons, then in such cases, even thereafter, if the land owner or any person claims to be in possession of those lands, then we have no hesitation in holding that continuance of such possession even after surrendering or delivering the land to the State is illegal possession and they shall be treated as encroachers.



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35. However, there are cases where although the competent authority issued the notice under [Section 11\(5\)](#) of the Act to the land owners or persons in possession to surrender or deliver possession of the land, but the land owner or the person in possession fails to deliver the land and continues to be in possession of such land and the authority of the State did not take action under [Section 11\(6\)](#) of the Act for taking delivery of possession, then in such cases, the State Government shall not be deemed to be in possession of those lands.”

Though Section 11(6) of the Act also employs expression “causing it to be given to the State Government or to any person duly authorized by the State Government”, such handing over cannot precede taking of possession. There must be definite material to show that the land was physically taken possession from the land owner. The record produced by the learned Additional Government Pleader refers to handing over the possession by ULC to the Revenue Inspector, Tirunelveli.

5.The document relied on by the learned Additional Government Pleader has the following title:-

*“Land taken charge”*

There is nothing on record to show that the land was physically taken over from the land owner. In the absence of any such definite material, I have to necessarily hold that the proceedings stand abated. I declare that ULC



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proceedings in respect of the petition mentioned land stand abated. The rival claims will have to be established before the jurisdictional civil Court.

6. The Writ Petitions are disposed of in the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

**29.09.2023**

Index : Yes / No

Internet : Yes/ No

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To

- 1.The Secretary to Government, Revenue Department,  
Government of Tamil Nadu, Chennai.
- 2.The Principal Secretary and Commissioner of Land Reforms,  
Chepauk, Chennai.
- 3.The Assistant Commissioner (Land Reforms), Tirunelveli.
- 4.The Assistant Commissioner Urban Land Ceiling and Urban Land Tax,  
Collectorate Building, Madurai.
- 5.The Revenue Divisional Officer, Collectorate Complex, Kokkirakulam,  
Tirunelveli District.
- 6.Tahsildar, S.N.High Road, Tirunelveli Taluk, Tirunelveli District.



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**G.R.SWAMINATHAN, J.**

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