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W.P.(MD)NO.18431 OF 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.18431 of 2015 AND
M.P(MD)Nos.2 and 3 of 2015

1. Muthukaruppa Kone
2. Gopal
3. M.Palani

... Petitioners

Vs.

1. The Principal Commissioner and
Commissioner of Land Reforms,
Chennai.
2. The Competent Authority (Urban Land Ceiling) and
Assistant Commissioner (Urban Land Tax),
Madurai.
3. State Rep. by,
The District Collector,
Madurai District,
Madurai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in Roc.A2/1010/87 dated 21.05.1998 on the file of the second respondent and quash the same as illegal, ultra vires and unconstitutional and for consequential orders.



For Petitioner : Mr.S.Ramesh
For R-1 & R-2 : Mr.N.GA.Natraj,
Government Advocate.
* * *

ORDER

Heard the learned counsel on either side.

2. The petitioners are the title holders of the petition-mentioned property. It is beyond dispute that the revenue record indicates that it is agricultural in character. But the proceedings were initiated under the Tamil Nadu Urban Land (Ceiling and Regulation) Act.

3. The writ petition has been filed challenging the proceedings of the competent authority issued under Section 12(6) of the Act on 21.05.1998. The learned counsel appearing for the petitioners would state that the proceedings should be deemed to have lapsed, since possession was not taken under Section 11(6) of the Act.

4. The respondents have filed counter affidavit and the learned Government Advocate took me through its contents and contended that the petitioner has ceased to have rights



over the petition-mentioned property. He pressed for dismissal of this writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. The learned counsel appearing for the petitioner relied on the order dated 29.04.2009 made in W.P.No.5874 of 2009. Paragraph No.11 of the said order reads as follows:-

“11. In view of the submissions made by the learned counsels appearing on behalf of the petitioners, as well the respondents, and on a perusal of the records, it is clear that actual physical possession of the lands in question had not been taken by the respondents. It has not been shown by the learned counsel appearing for the respondents that a notice under Section 11(6) of the Tamilnadu Urban Land (Ceiling and Regulation) Act, 1978, had been issued to the petitioners requiring them to comply with the notice issued under Section 11(5) of the Tamilnadu Urban Land (Ceiling and Regulation)



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Act, 1978. Therefore, it could be construed that actual physical possession of the lands had not been taken by the respondents. Further, the compensation amount due to the land owner had not been paid. In fact, the first respondent had issued a notice, dated 3.6.2002, inviting the petitioners to appear before him with regard to the amounts payable to them, as compensation under Section 12 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978. Thus, it is clear that the compensation amount had not been paid to the petitioners, as prescribed by the relevant provisions of the Act. Further, it has not been shown by the respondents as to whether the statutory notices had been served on the petitioners in accordance with Rule-8 of the Tamil Nadu Urban Land (Ceiling and Regulation) Rules, 1978. In such circumstances, the writ petition is liable to be allowed. Hence, the writ petition stands allowed. No costs."



7. In the case on hand also, the facts are similar. The petitioners have enclosed copies of the patta in respect of the petition-mentioned land. A copy of the parent title deed has been enclosed. It can be seen therefrom that the petition-mentioned land has been described as punja land. Copies of the kist receipt as well as the chitta have been enclosed in the typed set of papers. The respondents have not been able to produce the copy of the possession notice under Section 11(6) of the Act. Therefore, in this factual background, respectfully applying the ratio mentioned above, the order impugned in this writ petition is set aside. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

28.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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