



WA No.1713 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.1713 of 2021

MTS Raghavan (Deceased)
Ms.Amrit Malini Raghavan
(Substituted as L.R. as per order
dated 2.3.2015 in MP.No.1/2015
in WP.No.9103/2009)

.. Appellant

-VS-

1. The Special Commissioner and
Commissioner of ULC & ULT,
Chepauk, Chennai 600 005.
2. The Principal Secretary,
Commissioner of Land Reforms,
Chepauk, Chennai 600 005.

.. Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent
against the order of the learned Single Judge dated 23.01.2020
passed in W.P.No.9103 of 2009.

For the Appellant : Mr.N.Viswanathan

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

* * * * *



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JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.N.Viswanathan, learned counsel for the appellant and Mr.K.Karthik Jagannath, learned Government Advocate for the respondents.

2. The appellant/original petitioner has filed the writ petition challenging the order dated 16.03.2009 and seeking release of the property of the petitioner.

3. The petitioner claimed to be the owner of S.No.339/1A measuring 3804 sq. meters in Velacherry Village. The land to the extent of 2300 sq. meters in the said village was acquired under the Tamil Nadu Land (Ceiling and Regulation) Act, 1978. It was the case of the petitioner that though the said land was acquired, the possession of the said land was never handed over to the State. As per Section 3(1)(a) read with Section 4 of the Repeal Act 20 of 1999, if the possession of the property remains with the land owner, then the proceedings would lapse and the property would be free from



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encumbrances and the entire acquisition proceedings would stand vitiated. The first respondent, on 23.10.2008, dropped the proceedings. Subsequently, the Principal Secretary/Commissioner of Land Reforms, the second respondent, on 16.03.2009 observed that the Repeal Act would not affect the land vested with the Government and the possession of the land has been handed over to the Revenue Department. Hence, the endorsement issued was cancelled. The said order was challenged by the petitioner in the writ petition. The same is negatived.

4. The learned counsel for the appellant submits that the appellant and his predecessor were in possession of the property throughout. Under the Tamil Nadu Land (Ceiling and Regulation) Act, 1978, though an area of 2304 sq. meters was acquired, the actual physical possession was not handed over to the Department. Inter alia, upon the Repeal Act, the land would stand reverted to the petitioner free from encumbrances. The relevant aspect would be handing over of the physical possession. The physical possession was with the original owner and if the physical possession has not been taken over, then, advantage of the Repeal Act would be



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available to the appellant/original petitioner. Reliance is placed by the learned counsel for the appellant/original petitioner on the judgment of the Apex Court in the case of **State of U.P. vs. Hari Ram** reported in **2013 (4) SCC 280** and also several judgments of this Court, to buttress his submission that in view of the Repeal Act, if possession has not been taken by the authorities, then the proceedings would lapse and the appellant/petitioner would be entitled for the said land.

5. The learned counsel further submits that the order dated 16.03.2009 is passed without notice to the appellant violating the principles of natural justice.

6. We have considered the submissions. The prima donna consideration would be the possession of the property. It would appear that the father of the petitioner had, on 30.04.1979, accepted that he has filed the return regarding the property held by him. In the said statement, he accepted that he is eligible to retain 1500 sq. meters of the land as per the Act, 1978 and is willing to surrender the surplus land in S.No.339 of Velacherry Village and willing to receive



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the compensation to be fixed by the Government provided the compensation is adequate and reasonable. It is not disputed that the petitioner's father had accepted the compensation. The land to an extent of 2304 sq. meters was declared as surplus land. It further appears that the petitioner and his father were not present in the house, as such the possession was taken over by the concerned revenue officer on 26.02.1981. Endorsement to that effect is available in the original file. It further appears that possession was handed over to the Revenue Department and the Revenue Department, in turn, handed over the possession to the Social Welfare department under G.O.Ms.No.1466, Revenue Department, dated 26.08.1982.

7. It would also further appear that the land was encroached upon by some persons, namely, Ramasamy and others who had filed a writ petition. The appellant admits that he is not in possession and the encroachers were in possession of the property.

8. The learned Single Judge has observed that the entire compensation amount was received by the land owner. The



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possession was taken over by the State and subsequently handed over to the Social Welfare Department and a Government Order also was issued. The learned Single Judge, after examination of the record, has observed about the possession being taken over so also the land being handed over to the Social Welfare Department.

9. The learned Single Judge also observed that after the statement under Section 9(1), notice under Section 9(4) was issued to the urban land owner and final notice under Section 10(1) of the Act was also issued to the land owner on 12.07.1979. The land owner also acknowledged the said notice on 20.07.1979. After the issuance of notification under Sections 11(1), 11(3) and notice under Section 11(5), the land has been handed over to the Revenue Department on 26.02.1981. The land owner has received the compensation under Section 12(6) of the Act upto 15 instalments.

10. All these facts would show that the appellant/writ petitioner was never in possession of the property on the relevant date. In light of that, no error has been committed by the learned Single Judge.



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The writ appeal as such is disposed of. There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No

Neutral Citation : Yes/No

sra

To

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