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W.P. No.22265 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.22265 of 2019 and
W.M.P.Nos.21548 and 21551 of 2019

Vasanampalli Uma Maheswara Babu Naidu ... Petitioner

Vs.

1. The Competent Authority (ULC) and
the Assistant Commissioner (ULT)
Kundrathur
No.153, Karuneegar Street
Adambakkam, Chennai- 600 088

2. The Tahsildar

Maduravoyal Taluk, Chennai - 600 095

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus under Article 226 of the Constitution of India calling for records of the Tamil Nadu Government Gazette No.45 dated 18.11.1992 in Notification No.VI(1)/1824/92 under Section 11(3) of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1978 in respect of excess land in Survey No.18 of Valasaravakkam Village, Maduravoyal Taluk to quash the same by treating the proceedings referred to above as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act (20 of 1999) and



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for the reason of the impugned proceedings initiated against dead person and to direct the 2nd respondent to correct the entries in the Revenue records by incorporating the petitioner's name as the owner of the land in Plot No.134 in Survey No.18, Valasaravakkam Village, Maduravoyal Taluk.

For Petitioner : Mr.Sakthivel K

For Respondents : Mr.T.Arunkumar
Additional Government Pleader

ORDER

The Writ Petition is filed seeking to issue a Writ of Certiorarified Mandamus to call for the records of the Tamil Nadu Government Gazette No.45 dated 18.11.1992 in Notification No.VI(1)/1824/92 under Section 11(3) of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1978 in respect of excess land in Survey No.18 of Valasaravakkam Village, Maduravoyal Taluk to quash the same by treating the proceedings referred to above as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act (20 of 1999) and for the reason of the impugned proceedings initiated against dead person and to direct the 2nd



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respondent to correct the entries in the Revenue records by incorporating

the petitioner's name as the owner of the land in Plot No.134 in Survey

No.18, Valasaravakkam Village, Maduravoyal Taluk.

2. The brief facts of the case is that originally the lands comprised in Survey Nos.17, 18, 19, 20, 21 and Punja Survey No.30, 32/1A and 29 of Valasaravakkam Village belonged to one Alamelu Ammal. She died on 09.02.1985, leaving behind her husband Chockalinga Gramani and her daughter Shenbagavalli Ammal and the said Chockalinga Gramani also died on 25.10.1985. Thereafter the said Shenbagavalli Ammal being absolute owner of the property developed the property known as Sri Lakshmi Nagar and she had also obtained no objection from the then Valasaravakkam Town Panchayat for residential buildings on 16.06.1986. The petitioner's grandmother Mrs.P.Kamala Bai purchased an extent of 2000 Sq.ft. in Plot No.134 in Survey No.18 in Valasaravakkam Village in Saidapet Taluk, Chengalpet District, by way of Sale deed dated 29.08.1986



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in Document No.1981/1986 on the file of the SRO, Virugambakkam Taluk

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from the said Shengabagavalli Ammal. Thereafter, the petitioner's grandmother P.Kamala Bai, executed a registered settlement deed dated 12.09.1990 transferring the above said land in favour of the petitioner. The petitioner was living in the United Kingdom and with a plan to put up constructions in the said property, he reached Chennai on 17.03.2019 and when he visited the residence Association Office, he came to understand the legal issues connected with the above said land under the Tamil Nadu Urban Ceiling Land were pending. Therefore, the present Writ Petition is filed.

3 Learned counsel appearing for the writ petitioner would submit that the petitioner and his predecessors have been in possession of the land from 1987, but they have not been issued with any notice regarding proceeding under the Act. Further respondents initiated proceedings under the Act against the dead person. One Alamelu Ammal, who was the original owner of the acquired property, died on 09.02.1985



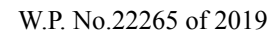
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itself and hence the very initiation of proceedings under the Act, without even serving notice to the person, who is in possession of the property, itself is illegal. All the notices were served only by way of affixture, which is impermissible as per Rule 8 of the Act.

4.1 Further the learned counsel contended that even now the alleged surplus land is under the physical possession and enjoyment of the petitioner.

4.2 The learned counsel appearing for the writ petitioner further submitted that when the Repeal Act 20 of 1999 came into existence, the entire proceedings of the second respondent got abated and hence the land in question has to be given to the petitioner. On the date when the Repeal Act came into force, the petitioner in possession of the land in question and hence proceedings under the Old Act got lapsed. Therefore the petitioner is entitled to retain his land.



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and necessary entries have also been made in the revenue records.

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Therefore, the entire acquisition proceeding attained finality much prior to the Repeal Act came into force and hence the question of abatement under Section 4 of the Repeal Act shall not arise in this case. Further, the petitioner has not taken any steps for mutation of the revenue records. The respondents after verifying the revenue records, found that the land stood in the name of Alamelu Ammal and hence initiated proceeding under the Act. Therefore at any angle, the proceedings initiated under the Act is valid and the writ petition is liable to be dismissed.

6 Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

7 It is the main contention of the learned counsel for the petitioner that the proceedings under the Act was initiated against the dead



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person and no notice was served on the petitioner, who is in possession of the land.

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8 It is seen from the death certificate of the urban land owner viz. Alamelu Ammal that she died on 14.02.1985. The Act came into force on 03.08.1976, which was enacted with a view to impose ceiling on vacant land in Urban Agglomerations and to prevent concentration of urban land in the hands of a few person. The urban land owner failed to file the return as per the Act. Therefore the respondent initiated proceedings under the Act and sent notice under Section 7(2) of the Act, which was served by affixture, but, neither the legal heir of the urban land owner, nor the petitioner who is said to have been in possession of the land raised any objections. If at all as contended by the learned counsel for the petitioner, the petitioner is in possession of the land, he should have raised objections, since the notices were served by affixture.



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9 Further, the petitioner has not taken any steps for mutation of the revenue records for more than 20 years and when the respondent served final notice under Section 11(5) of the Act to surrender the possession, the petitioner rushed this Court challenging the same raising the above said grounds. If at all the petitioner is in physical possession of the land, he should have raised objections before the competent authority, since the notices were served by way of affixture before the presence of Village Administrative Officer, Valasaravakkam Village. Further since the land is a vacant land, which comes under the ceiling limit of the Act, it was acquired as per the provisions of the Act. No documents to show that the petitioner is owner of the property, when proceedings under the Act was initiated.

10 The respondents after verifying the revenue records found that the land stood in the name of Alamelu Ammal and hence initiated proceeding under the Act and after following the mandatory provisions



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under the Act, finally excess vacant land was acquired and taken over by the revenue authorities on 20.01.1997 and necessary entries have also been made in the revenue records reflecting that the land belongs to the Government. Therefore the contention of the learned counsel for the petitioner is not acceptable.

11 The other grievance of the writ petitioner is that he is still in possession of the land and the second respondent did not send any notice on the petitioner. Even now the alleged surplus land is under the physical possession and enjoyment of the petitioner and hence when the Repeal Act 20 of 1999 came into existence, the entire proceedings of the second respondent got abated.

12 Admittedly one Alamelu Ammal was the original owner of the subject property and she died on 09.02.1985. She has not filed any returns under Section 7(1) of the Act, the first respondent initiated proceedings



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under Section 9(11) of the Act. Thereafter as per the Act, notice was

issued requesting to file objection, if any, for the proposed acquisition,

which was served by affixture. However, it is seen neither the land owner

Alamelu Ammal nor the legal representatives filed their objections and

hence after serving notices as contemplated under the Act, final notice

under Section 11(5) of the Act was issued requesting the land owner to

surrender possession of excess vacant land. If at all the petitioner is in

physical possession of the vacant land, he should have raised objection, but

the petitioner has not raised any objections. Hence since there was no

obstruction, there was no forceful possession under Section 11(6) of the

Act. The excess vacant land was vested with the Government from

01.02.1995 and possession of the excess land was taken over by the

revenue authorities on 20.01.1997 and necessary entries have also been

made in the revenue records. On the date of Repeal Act came into force,

the land was vested with the Government and there is no record to show

that on the date of Repeal Act came into force, the land stood in the name



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of the petitioner. If the petitioner was in physical possession of the land, he

should have produced any document to show that on the date of Repeal

Act came into force he was in possession of the land and revenue records

also mutated in his name and subsequently the mutation continued in the

name of the petitioner. Therefore, as per the records, entire acquisition

proceeding attained finality on 20.01.1997 much prior to the Repeal Act

came into force and hence the petitioner is not entitled to get benefits under

Section 4 of the Repeal Act.

13 For the foregoing reasons, the petitioner is not entitled to get the relief sought for in this writ petition and accordingly the writ petition is dismissed. Consequently connected miscellaneous petitions are closed. No costs.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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