



W.A.Nos.2735 & 2736 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

W.A.Nos.2735 & 2736 of 2022

and

C.M.P.Nos.22189 & 22190 of 2022

- 1.The Tahsildar,
Land Ceiling and Patta Issuing Authority,
Office of Tahsildar,
Puzhal Town 32/4, SH 111,
West Garden, Natesan Nagar,
Madhavaram, Chennai – 600 060.
- 2.The Special Tahsildar,
Land Ceiling – Patta Issuing Authority,
Puzhal, 32/4, SH 111,
West Garden, Natesan Nagar,
Madhavaram, Chennai – 600 060.
- 3.The Secretary,
Revenue Department,
Secretariat, Chennai – 600 009.



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4.The Commissioner (Land Reforms)

Commissionerate of Urban Land Ceiling and
Urban Land Tax Department,
Chepauk, Chennai – 600 005.

... Appellants
in both Writ Appeals

Vs.

- 1.R.Vagesh Kumar
- 2.Sridharan
- 3.Abraham Jothinayagam
- 4.Evangelin Emerald
- 5.Geetha S
- 6.Puspaveni
- 7.V.Nirmala
- 8.Mallika
- 9.Vilot Jayaseelan
- 10.Janaki
- 11.Rajakumar
- 12.Asha
- 13.Umamaheshwari Suresh
- 14.N.Rajamani
- 15.G.G.Madhavan
- 16.K.Ganesan
- 17.Dixcy Jebaclara
- 18.Shyamala Mercy Jullia
- 19.R.Sekar
- 20.Rajkumar
- 21.Pushpa Arasu
- 22.Mohan Stewart
- 23.Nagarjunagandham
- 24.T.Stanley Rajasingh

... Respondents
in W.A.No.2735 of 2022



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- 1.G.Selvam
- 2.G.Kalyanasundaram
- 3.D.Radhakrishnan
- 4.R.Dayalan
- 5.K.Sumathi
- 6.J.Solomon
- 7.A.Devendran
- 8.G.Anbalagan
- 9.Subananthan
- 10.K.Kirupakaran
- 11.Dharmaraj S.
- 12.Rajeshwari Nambi
- 13.A.Rajeswari
- 14.K.Srikala
- 15.G.Selvaraj
- 16.P.Govindasamy
- 17.S.Anusuya
- 18.G.Manavalan
- 19.G.Raghu
- 20.P.Nirmala Danasekar
- 21.Sri Krishnan
- 22.Jamilunnisha Begum
- 23.Narayanasamy Vani
- 24.K.C.Vijaya
- 25.K.Sathiyarayanan
- 26.K.Sudhakar
- 27.T.Muthiyalu Thanikachalam
- 28.Anbukumar
- 29.V.R. Viswanathan
- 30.R.Senthilkumar
- 31.Sumathi
- 32.Reena Joseph
- 33.T.Damotharan
- 34.S.Hemanthakumar



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35.T.K.Gangadevi

36.Sara Stephen

37.P.Jayaraman

38.B.Jayashree

39.D.Giri

40.M.R.Balakumar

41.Kannan

42.K.Ravi Selvam

43.G.Natarajan

44.S.Muralikrishnan

45.Mariamamma Joseph

46.Ramesh G.

47.D.Jeyakumar

48.S.Soundra Pandian

49.Alamelu Gopal

50.B.Anitha

51.B.Sumitha

52.M.I.Chandy

53.M.D.Rajeswari

54.T.K.Dhanasekar

55.Dayanand Krishnan

56.K.Kalyanakumar

57.K.Kalyanakumar

58.Sujatha

59.Ponraj

60.M.S.Santhosh Kumar

61.ML.Prema Devi

62.M.L.Jayakumar

63.M.T.Seetharaman

64.Prema Bai

65.K.Sathiaraj

66.Rathinabai

67.G.Kubendran

68.Nandagopalu

69.D.Kamaraj



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70.C.Suguna Bai

71.Jayalabudeen

72.Pushpalatha

73.Madurai Krishnaswamy

74.Ponraj Sadagopalan

75.Shaik Amanulla S.

76.C.K.Eswari

77.J.Baskar

... Respondents
in W.A.No.2736 of 2022

Prayer:- Writ Appeals in W.A.Nos.2735 and 2736 of 2022 filed under Clause 15 of the Letters Patent against the order dated 25.01.2022 in W.P.Nos.5172 of 2019 and 1067 of 2019 respectively on the file of this Court.

For Appellants : Mr.P.Ramanlal
Additional Advocate General
assisted by Mr.A.Selvendran
Special Government Pleader
in both Writ Appeals

For Respondents : Mrs.Rita Chandrasekaran
in both Writ Appeals

COMMON JUDGMENT

(Judgment was delivered by **S.S. SUNDAR, J.**)

W.A.No.2735 of 2022 is directed against the order of the learned



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Single Judge, dated 25.01.2022, in W.P.No.5172 of 2019, allowing the said writ petition filed by 24 individuals for issuance of a Writ of Mandamus directing the appellants 3 and 4 herein to forward the papers/documents pertaining to lands comprised in S.Nos.1485, 1485 part, situated within Madhavaram Village, Saidapet Taluk, Chengalpattu District, measuring an extent of 25 Acres 72 Cents to the appellants 1 and 2, and consequently, to direct the appellants 1 and 2 to issue patta in the name of the writ petitioners.

2. Similarly, W.A.No.2736 of 2022 is directed against the order of the learned Single Judge, dated 25.01.2022, made in W.P.No.1067 of 2019, allowing the said writ petition filed by 77 individuals for identical relief.

3. Since the prayer in both the writ petitions are identical and common issues arise for consideration in both the cases, these Writ Appeals are disposed of by this common judgment.

4. Identical affidavits are filed in both the writ petitions setting forth



the following facts :

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4.1.The writ petitioners in both the writ petitions are members of Madras Teachers Cooperative Building Society.

4.2.An extent of about 25 Acres and 72 Cents was originally purchased by one Mr.K.T.Bashyam Naidu and Mr.K.Narayanappan Naidu from one Mr.Sura Rangadasu Naidu under a sale deed dated 22.05.1914. Even though the title prior to 1914 is also stated in the affidavit, it is sufficient for us to trace the title from 1914. Subsequently, the property was enjoyed by the legal heirs of the said Mr.K.T.Bashyam Naidu and Mr.K.Narayanappan Naidu.

4.3.Thereafter, the Madras Teachers Cooperative Building Society (hereinafter referred to as “Society” for brevity) became the absolute owner of the entire extent of 25.72 Acres by virtue of 10 different sale deeds from the respective members of the family of the two individuals from 1971. It is also the case of the writ petitioners that the Society prepared a layout in S.No.1477 and obtained necessary sanction from the Director of Town and Country Planning by proceedings dated 16.12.1971. The Madhavaram



Township also granted approval for the layout by letter dated 16.12.1971.

Similarly, planning permissions were also obtained for layouts in S.Nos.1476, 1477, 1484 and 1485 by the Society. All the layouts were approved from the year 1971 to 1977.

4.4.The petitioners in both the writ petitions purchased plots from the approved layout from the Society under registered sale deeds. It is the specific case of the petitioners that they have also constructed residential houses after obtaining planning approval from the appropriate authority. The writ petitioners are residing there in the respective houses constructed by them in their plots from the year 1979 onwards and they are in uninterrupted possession and enjoyment for the past 35 years.

4.5.Though the Society purchased the property from 1971, no proceedings under Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, (hereinafter referred to as “the Urban Land Ceiling Act” for brevity) was initiated against the Society or the vendors of the Society. However, the grievance of the writ petitioners is that the appellants 1 and 2 refused to issue patta to the individual writ petitioners. The writ petitioners came to know that proceedings were initiated under the Urban Land Ceiling Act as



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against one individual by name Mrs.Vimala, W/o.C.S.Kuppusamy, as if she is in enjoyment of an extent of 49350 sq.m. and that her holding in excess of 500 sq.m. has to be surrendered to the Urban Land Ceiling authorities.

4.6.It is the specific contention of the writ petitioners that Mrs.Vimala Kuppusamy purchased only a plot namely Plot No.61 measuring an extent of 2400 sq.ft. by sale deed dated 29.12.1978 registered as Doc.No.3743 of 1978. It is further stated that Mrs.Vimala Kuppusamy, thereafter, sold the said plot to one Mr.Devendran in the year 1988 vide registered sale deed in Doc.No.41 of 1988. Therefore, the writ petitioners stated in the affidavit that the land comprised in S.No.1485 in entirety is not the property of Mrs.Vimala Kuppusamy and the proceedings initiated against Mrs.Vimala, as if she sold the land in plots on the basis of a Power of Attorney from Mr.K.T.Bashyam Naidu, as assumed by the appellants, is a mistake and error. It is also contended by the writ petitioners that, since the title of the Society as per the sale deeds obtained by them from the original owners are known to the Revenue Department, the mistake may be due to wrong entries in Revenue records.

4.7.The writ petitioners state that the appellants proceeded under the



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Urban Land Ceiling Act under wrong assumption that Mrs. Vimala is the owner of 12.20 Acres of land comprised in S.No.1485 and other fields to be acquired under the Urban Land Ceiling Act. It is also contended by the writ petitioners that, from the correspondences, it is also shown that the appellants have failed to verify the documents which were submitted by the writ petitioners.

4.8.It is pertinent to mention that, apart from the petitioners in the two writ petitions, several others also purchased plots in the same layout and no proceedings have been initiated against them, even though they also trace their title to the Society which had purchased the property way back in 1971.

4.9.Therefore, alleging that the appellants have no reasonable cause to refuse issuance of patta to the writ petitioners, the petitioners in both the writ petitions have approached this Court for issuance of a Writ of Mandamus directing the appellants 3 and 4 to forward the documents relating to S.Nos.1485, 1485 part in Madhavaram Village, Chengalpattu District, measuring an extent of 25 Acres and 72 Cents, to the appellants 1 and 2 and to direct the appellants 1 and 2 to issue patta in the name of the



writ petitioners.

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5.A detailed counter affidavit was filed by the appellants in both the writ petitions with identical contents, as follows :

5.1.It is the case of the appellants that one Mrs.Vimala is the owner of the land in S.No.1485/1, measuring an extent of 49350 sq.m., and that proceedings were initiated under Urban Land Ceiling Act, since Mrs.Vimala did not submit the Returns.

5.2.After referring to preliminary notice under Section 7(2) of the Act, the counter affidavit also refers to the notice under Section 9(4) of the Act along with statement under Section 9(1) of the Act issued against Mrs.Vimala. All the proceedings under Section 9(5) of the Act and notice in the statutory forms were issued only to Mrs.Vimala. The Assistant Commissioner, Urban Land Ceiling, Madhavaram, declared excess lands in the holding of Mrs.Vimala and proceeded to take possession of the excess land determined as vacant land under Section 11(1) of the Act. Notice under Rule 10(3) in Form-VII requesting Mrs.Vimala, W/o.C.S.Kuppusamy to surrender and deliver possession of excess vacant land was also issued to



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Mrs.Vimala. The Deputy Tahsildar, Urban Land Tax, Madhavaram, and the Revenue Inspector, Madhavaram Firka, Saidapet Taluk, have signed the proceedings dated 22.01.1993, as if the former had handed over possession and the latter had taken over possession on 22.01.1993.

5.3.It was thereafter, further proceedings were issued in 2000, calling upon the said Mrs.Vimala to appear in person before the Assistant Commissioner (Urban Land Tax), Madhavaram, to submit her statement in writing showing the nature of her interest in the land, the claim for an award of any amount payable under Section 12 of the Act.

5.4.Despite repeated notices being sent to Mrs.Vimala, it appears that the said Vimala did not respond, probably she had no interest in any portion of the property, as the only plot purchased by her was resold long before the proceedings against her under Urban Land Ceiling Act commenced.

6.Taking note of the facts which are borne out from the records, the learned Single Judge allowed the writ petitions and directed the appellants to consider the applications for issuance of patta within a period of three months.



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7. Aggrieved by the order of the learned Single Judge allowing the writ petitions, the above Writ Appeals are filed.

8. It is to be noted that all the writ petitioners have constructed independent houses in their respective plots and therefore, the fact that the writ petitioners are in physical possession of the property cannot be disputed. However, without any document to show that the substantial portion of the land in respect of which the layout was formed, was treated as the land belongs to Mrs. Vimala Kuppusamy, who never owned any land in excess of 2400 sq.ft. in the Survey Field, the appellants have initiated Urban Land Ceiling proceedings against Mrs. Vimala. It is to be noted that, after the purchase of a plot as per the sale deed dated 29.12.1978, the said Mrs. Vimala had sold the same to one Mr. Devendran in the year 1988. Therefore, as on date when the proceedings were initiated against the said Mrs. Vimala, she did not own a bit of land in the Survey Field.



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9.In the counter affidavit filed by the appellants in the writ petitions, it is seen that the appellants have believed that the entire land measuring an extent of 49350 sq.m. belonged to Mrs.Vimala and hence, proceedings were initiated against her by issuing notice under Section 7(2) of the Urban Land Ceiling Act in the year 1988 by treating the entire land in the holding of the said individual by name Mrs.Vimala, despite the fact that the property was sold in favour of the Society by the legal heirs of Mr.K.T.Bashyam Naidu and Mr.K.Narayanappan Naidu who purchased the land in the year 1914. Not even a single document is produced before this Court by the appellants to show that proceedings under Urban Land Ceiling Act was against the lawful owner so as to non-suit the petitioners who are entitled to patta otherwise. The appellants have not issued any reply in response to any of the notices issued by the writ petitioners. When it is not in dispute that the Society was able to get approval for the layout, this Court can presume that the Revenue records were also transferred in the name of Society on the basis of the sale deeds obtained by the Society from 1971 to 1978.



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10.Assuming for a moment that the lands were registered in the holding of previous owner, there is no rhyme or reason why the lands should be treated as lands of one Vimala, W/o.Kuppusamy, who has purchased only a plot in 1978 and sold the same in 1988. It is to be noted that the Urban Land Ceiling Act came into effect on 3rd August, 1976, and no proceedings were initiated against the Society, who had developed the land and sold it in favour of individual plot owners. Despite several documents produced by the petitioners under which they claim title to the property and the appellants could have verified the title by calling upon them to produce relevant records, the appellants have not applied their mind to ascertain the real facts.

11.It is to be noted that the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978, was repealed by Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 (Act 20 of 1999). In this case, after initiating proceedings against a wrong person, i.e., Vimala,



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W/o.Kuppusamy, the appellants relied upon a Land Delivery Receipt, dated 22.01.1993, showing the delivery and acceptance of delivery of possession, respectively, by the Deputy Tahsildar, Urban Land Tax and Revenue Inspector, Madhavaram Firka. This Court, in the case of ***The Secretary to Government, Revenue Department, Secretariat, Chennai and others v. B.Anand Kumar*** reported in ***2016 (3) CTC 668***, held that, record of delivery of possession by way of Land Delivery Receipt or Panchanama is not sufficient and there should be exchange of physical possession as contemplated under the Act and by following the procedure. Again this Court, in the case of ***T.Kalasalingam and another v. The Government of Tamil Nadu, represented by its Secretary, Revenue Department and others [W.P.No.12354 of 2022, dated 04.11.2022]***, following several precedents, has categorically held that, unless physical possession had been taken under Section 11(5) of the Act, repeal of the Act as per the Repealing Act would come into play and the proceedings so far under the Urban Land Ceiling Act would lapse. This Court, in the said judgment, also reiterated that there cannot be paper delivery and there must be actual physical possession being taken after issuing notice to the person in possession.



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12.It is surprising to note that the appellants have now filed the above appeals knowing fully well that the writ petitioners are in physical possession and that the entire property is in the enjoyment of the respective writ petitioners by construction of houses. It is also admitted by appellants that no notice was issued to the petitioners at any point of time. Therefore, the proceedings appears to be at the instigation of some of the officials with corrupt motive to reap some monetary benefits under the threat of false or fake Urban Land Ceiling proceedings, which was against a single plot owner who had also sold the same long back before the proceedings were initiated against her. Despite the fact that the petitioners have narrated the crucial facts about the title and that they are in exclusive possession and enjoyment by putting up construction, the appellants have chosen to file appeals and tried to make the property litigious. As competent authority, the appellants are expected to know from the records that the whole proceedings are void and this Court finds no *bona fides* in this litigation. Therefore, this Court is of the view that the writ petitioners should be



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compensated. Accordingly, **these Writ Appeals are dismissed with costs.**

Consequently, connected miscellaneous petitions are closed.

13.While dismissing this writ petition after hearing the parties, this Court postponed detailed order. Therefore, the matter is directed to be listed on 25.09.2024, for passing appropriate orders regarding the quantum of cost and who should be held liable for cost.

(S.S.S.R., J.) (K.R.S., J.)
03.09.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

1.The Tahsildar,
Land Ceiling and Patta Issuing Authority,
Office of Tahsildar,
Puzhal Town 32/4, SH 111,
West Garden, Natesan Nagar,
Madhavaram, Chennai – 600 060.

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