IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.11.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.35391 of 2023
&
W.M.P.Nos.35361 & 35363 of 2024

1.K.Surendra Babu

2.S.Varamani ...Petitioners

Vs.

1.State of Tamil Nadu
The Commissioner of Urban Land Ceiling and Tax,
Ezhilagam,
Chennai- 005.

2.The State of Tamil Nadu
Rep by the Asst. Commissioner of Urban Land Ceiling and Tax,
No.5, Sannathi Street, Poonamallee,
Chennai-600 056.

...Respondents

Prayer: Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent as indicated in Sec. 12 (7) Notice Rc. 0510/ 2022/C dated 11.05.2022 in relation to the property of the petitioners in Survey No.93/1A- 70 cents, Poonamalle Taluk, Tiruvallur District, and quash the same and direct the 2nd respondent to exclude the entire land as referred above from the urban land proceedings.

For Petitioner : Mr. P.Subba Reddy

For Respondents : Mr. M.R.Gokul Krishnan
Additional Government Pleader.

O R D E R

The Writ Petition is filed for the following relief:

"To call for the records of the 2nd respondent as indicated in Sec. 12 (7) Notice Rc. 0510/ 2022/C dated

11.05.2022 in relation to the property of the petitioners in Survey No.93/1A- 70 cents, Poonamalle Taluk, Tiruvallur District, and quash the same and direct the 2nd respondent to exclude the entire land as referred above from the urban land proceedings."

2. The facts set out in the affidavit filed in support of the Writ Petition is herein below set out in a nutshell. It is the case of the petitioners that the property which is the subject matter of the Urban Land Ceiling proceedings is a larger extent of land belonged to one Kothandapani Naidu, the father of the petitioners herein. The property was purchased in the year 1956, under a registered sale agreement bearing Doc.No.2573/1956. The land in question is an agricultural land.

3. The petitioners would submit that from the date of the purchase, they had been carrying on agricultural activities on the said land. The petitioners' father Kothandapani Naidu died on 09.01.1988

and their mother, Rajambal died on 22.03.2013. The petitioners would submit that the Urban Land Ceiling proceedings were initiated on 03.08.1976, after the Act had come into force. At that point in time, the family members were four, namely, the petitioner's father Kothandapani Naidu, mother Rajambal and the petitioners, who are brother and sister.

4. The petitioners would submit that no notice whatsoever has been served on the petitioners right from the issue of Section 7 notice. The notice under Section 10 (1) was initiated as early as on 11.10.1998, by which point in time, the petitioner's father Kothandapani Naidu was no more. The petitioners would contend that to date possession continues to remain with them and that apart no compensation had been paid to them for acquiring the property.

5. The further case of the petitioners is that the notice have been served on a person totally unconnected with the property. The orders have also been passed without holding any enquiry. Further, the notice

under Section 12 (6) and 12 (7) of the Act has been issued as if the entire proceedings are over.

6. It is the contention of the petitioners that after 16.06.1999, the respondents do not have any right to issue notice to the owners, by then the Repeal Act had come into force. Therefore, the Writ Petition has been filed to quash the 2nd respondent's notice dated 11.05.2022 and consequently direct the 2nd respondent to exclude the entire land from the Urban Land Ceiling Proceedings.

7. The respondents have filed a counter statement denying the allegations. The respondents would contend that as per the revenue records one Kothandapani Naidu was found to be the owner of the land measuring an extent of 2350 sq.mts., comprised in S.No.93/1A. The land owner did not file a return under Section 7 (1) of the Act. Since the owner had not filed the return, notice under Section 7 (2) of the Act has been issued by the 2nd respondent on 27.02.1996 and the same was also served on the land owner on 28.05.1996. No objections were filed

by the Urban Land Owner. Thereafter, draft notice under Section 9 (4) and draft Statement under Section 9 (1) of the Act, were issued on 08.07.1986, calling for the objections for the proposed acquisition. The notice and the statement were served on 26.09.1996, by the Village Assistant, Nemilichery Village, in the presence of two witnesses.

8. The orders under Section 9 (5) of the Act, was passed on 14.02.1997, determining an extent of 2350 sq.mts., to be a vacant land, after allotting an extent of 500 sq.mts., towards entitlement area. The owner had refused to receive the said order and the same was affixed on 02.05.1996. The notification under Section 11 (1) of the Act was issued on 27.02.1998 and published on 29.04.1998. The notification under Section 11 (3) of the Act was issued on 29.05.1998 and the land according to the respondents vested with the Government on and with effect from 15.08.1998.

9. By notice dated 11.09.1998, under Section 11 (5) of the Act, the land owner was directed to handover possession of the excess land.

When the said Kothandapani Naidu refused to receive the same, the same was served by affixture, by the Field Assistant in the presence of Village Assistant, Nemilichery Village. The possession was taken over on 03.05.1999.

10. It is also their contention that an extent of 1500 sq.mts., was allotted to the Chennai Metropolitan Development Authority (CMDA) for the formation of the outer ring road. Therefore, the respondents would submit that the Writ Petition deserves to be dismissed.

11. On an earlier occasion, this Court had directed the production of the original documents, which have also been produced on 21.11.2024. A perusal of the documents would clearly indicate that the original owner Kothandapani Naidu in response to Section 7 (2) notice had appeared before the authorities and contended that the lands in question were agricultural lands and had not been reclassified as an Urban Land and that for the present it was not being cultivated. However, it continued to be an agricultural land.

12. On 29.10.1996, the filed inspection has been undertaken as per the provisions of Section 9 (5) of the Act. The authority concerned has clearly described the land as an agricultural barren land. He has also stated that the said survey number has not been reclassified as urban land and continued to remain agricultural land and possession was with the owners. In the light of the above, when the lands in question are agricultural lands, the very invocation of the Urban Land Ceiling Act is totally misconceived.

13. The definition of the *"Urban Land"*, under Section 3 (o) is as follows:

> *"(0) " urban land " means-*
>
> *(i) any land situated within the limits of an urban agglomeration and referred to as such in the master plan ; or*
>
> *(ii) in a case where there is no master plan, or*

where the master plan does not refer to any land as urban land, any land within the limits of an urban agglomeration but does not include any such land which is mainly used for the purpose of agriculture.

14. Section 3 (n) defines "*Urban Agglomeration*", as follows:

"(n) "urban agglomeration " means- (i) the area comprised in the urban agglomeration specified in Schedule I ; and (ii) any other area which the State Government may, having regard to its location, population (population being more than one lakh) and such other relevant factors as the circumstances of the case may require by notification in the Tamil Nadu Government Gazette, declare to be an urban agglomeration and any agglomeration so declared shall be deemed to belong to category III in that Schedule;

15. Section 5 of the Act provides "*ceiling limit"*. A reading of

the same would clearly indicate that it is with reference to the land situate in urban agglomeration that the Act applies.

16. Therefore, in the light of the inspection report, which not only states that it is an agricultural land but also states that the lands have not been converted as urban land as contemplated under the Act, the Writ Petition is allowed. The notice under Section 12 (7) dated 11.05.2022 is quashed. The patta in respect of the above lands, shall be restored in the name of the petitioners, within a period of 8 weeks from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed. No costs.

26.11.2024

Index : Yes/No
Internet : Yes/No
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To

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