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W.P(MD)No.2523 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2523 of 2022

and

W.M.P.(MD)No.2217 of 2022

J.M.Sundar

... Petitioner

Vs.

1.The Principal Secretary / Commissioner,
Government of Tamil Nadu,
Urban Land Ceiling and Urban Land Tax,
Chepauk,
Chennai-600005.

2.The Secretary to Government,
Government of Tamil Nadu,
Land Administration Department,
Ezhilagam, Chepauk,
Chennai-600 005.

3.The Assistant Commissioner,
Urban Land Ceiling and Urban Land Tax,
Door No.15, Plot No.4,
K.K.Nagar East,
Madurai 625 020.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents either to issue all the relevant records pertaining to the acquisition proceedings if any in respect of the landed property lies in S.No.84/5C of Sathamangalam Village Madurai City and District, or consequently directing the respondents to



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furnish No Objection Certificate to the petitioner to get Patta in his name in respect of the aforesaid property within the time limit that may be fixed by this Court.

For Petitioner : Mr.K.Sridhar
for Mr.C.M.Arumugam

For Respondents : Mr.D.Gandhiraj
Special Government Pleader

ORDER

Heard both sides.

2. The only question that calls for consideration in this case is whether the proceedings initiated under Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 can be said to have lapsed and whether the petitioner can take advantage of the provisions of the Repealing Act, 1999. As rightly contended by the learned counsel appearing for the petitioner, the whole thing boils down to whether there is material on record to show that the possession was taken. Considerable reliance was placed by the learned counsel appearing for the petitioner on the decision of the Hon'ble Supreme Court reported in **(2013) 4 SCC 280 (State of Uttar Pradesh Vs. Hari Ram)** and the decision of the Hon'ble Division Bench of this Court reported in **2023 (5) CTC 457**.

3. I called upon the learned Special Government Pleader to produce materials to show that possession was taken. My attention is drawn to the notice issued under Section 11(5) of the Act on 30.07.1982. The officials have



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produced the original files before me. It is seen therefrom that the petitioner's maternal uncle Thiru.M.Viswanathan gave a statement on 20.08.1992 to the effect that he has no objection for the acquisition of the land and handing over possession of the land. The original files clearly show that on 19.11.1982, the Tahsildar, Madurai North requested the land surveyor to assist him in taking possession of the surplus land of the said M.Viswanathan. Accordingly, survey was conducted and possession was taken on 25.11.1987. The Tahsildar, Madurai North sent communication dated 26.11.1982 addressed to the Assistant Commissioner, Urban Land Ceiling and Urban Land Tax, Madurai North stating that on 25.11.1982, possession of the land was taken. When the materials on record convincingly demonstrate that physical possession of the land was taken and that too with the consent of the original land owner, the question of applying the ratio laid down in *Hari Ram case* does not arise at all. The learned Special Government Pleader would draw my attention to the decision reported in **(2021) 10 SCC 614 (State of Tamil Nadu Vs. M.S.Viswanathan)**. The factual matrix obtaining in the said case are broadly similar. The said case also pertained to “taking over possession” found in Section 3 of the Repeal Act. I am more than satisfied that possession was taken in this case. I dismiss the writ petition not on the ground of laches but on merits.



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4. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.03.2024

Index : Yes / No

Internet : Yes/ No

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G.R.SWAMINATHAN, J.

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