



W.P(MD)No.17758 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

**DATED: 12.06.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P(MD)No.17758 of 2022**

K.Palaniyappan

... Petitioner

Vs.

1.The Commissioner,  
Urban Land Ceiling and Urban Land Tax,  
Chepauk, Chennai – 5.

2.The Assistant Commissioner,  
Urban Land Ceiling and Urban Land Tax,  
Collectorate,  
Madurai.

3.The Revenue Divisional Officer,  
Thirunelveli District,  
Thirunelveli.

4.The Tahsildar,  
Palayamkottai,  
Thirunelveli.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to delete the entries and to issue patta to the Petitioner's land situated in S.No.66/1, 66/3 and 66/5, Melapalayam Village, Palayankottai Taluk, and



W.P(MD)No.17758 of 2022

restore the status of the said lands as patta land based on the petitioner's representation dated 31.08.2018.

For Petitioner : Mr.A.Srinivasan  
For Respondents : Mr.P.Thambi Durai  
Government Advocate

### **ORDER**

Heard both sides.

2.The case of the petitioner is that the proceedings initiated under the Tamil Nadu Urban Land Ceiling Act against the petitioner's father stood abated. My attention is drawn to the judgment of the Hon'ble Division Bench reported in ***(2012) 6 MLJ 273 (Government of Tamil Nadu rep. by its Commissioner and Secretary to Government Vs Mecca Prime Tannery rep. by its Managing Director)***.

3.The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and contended that there is nothing on record to show that possession was physically taken from the petitioner's family. He called upon this Court to allow the writ petition as prayed for.



W.P(MD)No.17758 of 2022

4.The respondents have filed counter affidavit and the learned Government Advocate took me through its contents. It is categorically asserted by the respondents that possession of the excess vacant land was handed over by the Special Deputy Tahsildar on 16.12.1989 and taken over by the Revenue Inspector, Palayamkottai on the same day. The respondents want this Court to dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record.

6.Paragraphs 32 to 35 of the aforesaid decision read as follows:

*“32. Section 11(3) of the Act very clearly provides that after the notification is issued under Section 11 declaring the excess vacant land, the same shall be deemed to have been acquired and vested in the State Government, free from all encumbrances. Section 11(3), therefore, does not provide that after the notification, the State Government shall be deemed to have come into possession of the land so declared as excess land. After such vesting of the land in the State under Section 11(3), the State has to initiate action for taking possession of the land, which is evident from the provisions contained in Section 11(5) and Section 11(6) of the Act. Section*



WEB COPY



W.P(MD)No.17758 of 2022

*11(5) contemplates issuance of notice by the State Government to any person, who may be in possession, to surrender and deliver possession of the land to the State Government or any person duly authorised by the State Government in this behalf. If the owner of the land or the person in possession refuses or fails to deliver possession of the land to the competent authority, the latter may take possession of the land even by using force, if necessary, as contemplated under Section 11(6) of the Act.*

*33. The phrases shall be deemed to have been acquired and shall be deemed to have been vested absolutely in the State Government occurring in Section 11(3) of the Act, in our considered opinion, mean that the right, title and interest in respect of the land shall be deemed to have been vested in the State Government and not possession of the land. After the right, title and interest is vested in the State Government by notification under Section 11(3), the State Government has to take further action for taking possession of the land, if the land owner or any person in possession refuses or fails to surrender or deliver possession of the land so vested in the Government.*

*34. There are cases where after notice under Section 11(5) of the Act, the land owner delivers possession of the land and acknowledges the same in writing, and the State, after taking possession of the land*



W.P(MD)No.17758 of 2022

*so delivered voluntarily by the land owner, either comes into possession of the same or allots those lands to other persons, then in such cases, even thereafter, if the land owner or any person claims to be in possession of those lands, then we have no hesitation in holding that continuance of such possession even after surrendering or delivering the land to the State is illegal possession and they shall be treated as encroachers.*

*35. However, there are cases where although the competent authority issued the notice under Section 11(5) of the Act to the land owners or persons in possession to surrender or deliver possession of the land, but the land owner or the person in possession fails to deliver the land and continues to be in possession of such land and the authority of the State did not take action under Section 11(6) of the Act for taking delivery of possession, then in such cases, the State Government shall not be deemed to be in possession of those lands.”*

Though Section 11(6) of the Act also employs expression “causing it to be given to the State Government or to any person duly authorized by the State Government”, such handing over cannot precede taking of possession. There must be definite material to show that the land was physically taken possession from the land owner. Even the counter affidavit filed by the respondents does not claim that possession was



W.P(MD)No.17758 of 2022

taken from the petitioner's father. On the other hand, in the typed set of papers, the petitioner has enclosed material to show the revenue record continues to reflect the name of the petitioner's father, namely, Arunachallam Pillai @ Ganapathy Pillai. Even the Tahsildar, Palayamkottai had issued A-Register extract as late as in year 2017 and it also mentions the name of Arunachalam Pillai. Even the counter affidavit does not indicate as to when physical possession was taken from the petitioner's father. In the absence of such material, I have to necessarily hold that the proceedings initiated under the ULC Act stood abated. I declare that ULC proceedings in respect of the petition mentioned land stand abated.

7.This writ petition is allowed accordingly. There shall be no order as to costs.

**12.06.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
MGA



WEB COPY



W.P(MD)No.17758 of 2022

**G.R.SWAMINATHAN,J.**

MGA

To

- 1.The Commissioner,  
Urban Land Ceiling and Urban Land Tax,  
Chepauk, Chennai – 5.
- 2.The Assistant Commissioner,  
Urban Land Ceiling and Urban Land Tax,  
Collectorate,  
Madurai.
- 3.The Revenue Divisional Officer,  
Thirunelveli District,  
Thirunelveli.
- 4.The Tahsildar,  
Palayamkottai,  
Thirunelveli.

W.P(MD)No.17758 of 2022

12.06.2024