



Writ Petition No.2539 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.2539 of 2008

and

M.P.No.1 of 2008

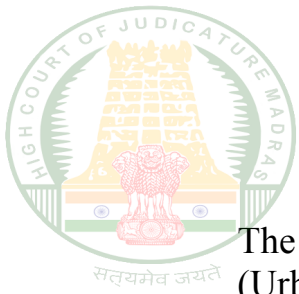
- 1.Rajkumar - Deceased
- 2.Kamala Devi
- 3.Lalit Kumar Jain alias Lalit Jain
- 4.Susheel Kumar Jain
- 5.Susheela Jain
- 6.Sangeetha Sethi
- 7.Sunil Jain
- 8.Anil Kumar Jain alias Anil Jain
- 9.Sunitha Jain

... Petitioners

[P2 to P9 are substituted as LR's of
deceased P1 as per order dated
10.03.2025 in W.M.P.No.8770/2025
in W.P.No.2539 of 2008]

Vs.

- 1.The State of Tamil Nadu,
represented by the
Secretary to Government,
Revenue Department,
Fort St.George, Chennai.
- 2.The Principal Commissioner cum
Commissioner Land Administration,
Chepauk, Chennai.
- 3.The Competent Authority,



Writ Petition No.2539 of 2008

WEB COPY

The Assistant Commissioner,
(Urban Land Ceiling Act)

153, Karunika Street,
Adambakkam, Chennai - 600 088.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Declaration declaring that the urban land ceiling proceedings taken by the respondents in respect of land comprised in S.No.451/1B of an extent measuring 1 Acre situated at Perumbakkam Village as per Patta No.292 issued by the Tahsildar, Saidapet (presently Tambaram Taluk) are abated.

For Petitioners : Mr.K.Bijay Sundar

For Respondents : Mr.P.Sathish,
Additional Government Pleader

ORDER

This writ petition has been filed seeking for a declaration to declare the proceedings initiated by the respondents with respect to the subject property under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 [hereinafter referred to as 'the Act'], as lapsed by virtue of the Repeal Act.

2. Heard Mr.K.Bijay Sundar, learned counsel for petitioners



Writ Petition No.2539 of 2008

and Mr.P.Sathish, learned Additional Government Pleader appearing for

respondents.

3. The petitioners became the owner of the subject property by virtue of a registered sale deed dated 17.09.1986. According to the petitioners, the name of the first petitioner was also mutated in the revenue records. The further case of the petitioners is that the subject property at Perumbakkam was not even a part of the schedule and it did not come within the scope of the urban land within the meaning of the Act, as on 03.08.1976. Ultimately, it came to be included as a urban land only through G.O.Ms.No.679, dated 17.07.1995. In view of the same, the petitioners have taken a stand that the proceedings initiated as against the land belonging to the petitioners is unsustainable.

4. The petitioners, in the alternative, have also taken a stand that the possession continues with the petitioners and it has not been taken over as contemplated/mandated under the Act and hence, the Repeal Act has come into force whereby the proceedings itself stands lapsed.

5. The respondents have filed a counter and they have taken a



WEB COPY

stand that the first petitioner is only a subsequent purchaser and therefore,

he has no *locus standi* to question the proceedings initiated under the Act.

According to the respondents, one Madhusoodhanababu owned the property and notice was issued under Section 7(2) of the Act on 25.01.1997 by the third respondent directing him to file returns under Section 7(1) of the Act. Notice was not able to be served and therefore, the authorities resorted to affixture of notice. Since no reply was received, notice under Section 9(4) of the Act along with statement under Section 9(1) of the Act was issued by the third respondent through proceedings dated 23.01.1998 and this was also served by affixture. Since there was no reply, order under Section 9(5) of the Act was passed on 28.04.1998 declaring an extent of 3550 sq.mts as excess vacant land after leaving 500 sq.mts. The notice under Section 9(5) of the Act was also served by affixture. Thereafter, final statement was issued under Section 10(1) of the Act on 30.06.1998. Notification under Section 11(1) and 11(3) of the Act was also published in the Gazette on 14.08.1998 and 06.01.1999 respectively. Ultimately, notice under Section 11(5) of the Act was sent to the urban land owner directing him to surrender possession of the excess vacant land. Since notice was not able to be served in person, the third respondent resorted to service by affixture. Thus, the possession of



the excess land measuring an extent of 3550 sq.mtrs was taken over and it was handed over to the revenue department on 01.06.1999. Accordingly, the respondents have sought for dismissal of the writ petition.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. There are two main issues that were raised in the present writ petition and they are:

- (a) The subject property at Perumbakkam was not brought within the schedule and it is not a urban land within the meaning of the Act as on 03.08.1976. It was included in Schedule I only through G.O.Ms.No.679 dated 17.07.1995 and therefore, the very invocation of the Act against the property is unsustainable.
- (b) The mandate under Section 11(5) of the Act has not been followed by issuing notice and possession was not taken and therefore, the proceedings itself stood abated in view of the Repeal Act.

8. Insofar as the first issue is concerned, the counter affidavit of the respondents shows that proceedings were initiated against the



Writ Petition No.2539 of 2008

WEB COPY

erstwhile owner Madhusudana Babu under Section 7(2) of the Act by issuance of a notice dated 25.01.1997. It is seen from records that only under G.O.Ms.No.679 dated 17.07.1995, Perumbakkam village was included under Schedule I of the Act. In view of the same, when the petitioner purchased the property through a registered sale deed dated 08.09.1986 from the erstwhile owner Madhusudana Babu, it was not coming within the purview of a urban land within the meaning of the Act as on 03.08.1976. Hence, this Court holds that the sale deed executed in favour of the petitioner on 08.09.1986 cannot be held to be invalid since the sale deed was executed in favour of the petitioner even before Perumbakkam village was included under Schedule 1. The first issue is answered accordingly.

9. Insofar as the second issue is concerned, it is seen from the counter affidavit filed by the respondents as well as the materials placed before this Court that notice has been served only by means of affixture. This Court has repeatedly held that the notice under Section 11(5) of the Act must be sent by way of a registered post and served on the owner and if thereafter the property is not handed over, action can be initiated under Section 11(6) of the Act. Useful reference can be made to the order



Writ Petition No.2539 of 2008

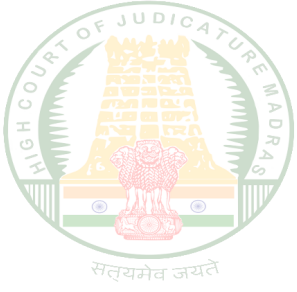
passed by this Court in W.P.Nos.16766 and 7409 of 2019, dated 13.03.2020.

10. As held supra, as on the date when Perumbakkam village was included in Schedule I, the petitioner was the owner of the property by virtue of the registered sale deed dated 08.09.1986. Not even once the notice was served on the petitioner in spite of the fact that the name of the petitioner was mutated in the revenue records. No steps were taken to serve notice under Section 11(5) of the Act to the urban land owner till the Repeal Act came into force. Thereby, the proceedings itself stands abated insofar as the petitioner is concerned. The second issue is answered accordingly.

11. In the light of the above discussion, the proceedings initiated by the respondents is declared to have abated/lapsed with respect to the subject property belonging to the petitioner.

N.ANAND VENKATESH, J

gm



Writ Petition No.2539 of 2008

Accordingly, this writ petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

17.03.2025

Neutral Citation: Yes/No

Index: Yes/no

Speaking Order/Non-Speaking Order
gm

To

- 1.The Secretary to Government,
Revenue Department,
Fort St.George, Chennai.
- 2.The Principal Commissioner cum
Commissioner Land Administration,
Chepauk, Chennai.
- 3.The Competent Authority,
The Assistant Commissioner,
(Urban Land Ceiling Act)
153, Karunika Street,
Adambakkam, Chennai - 600 088.

Writ Petition No.2539 of 2008