

WP.Nos.18333 of 2019
& 4862 of 2025

In the High Court of Judicature at Madras

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Reserved on 26.3.2025	Delivered on : 01.4.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition Nos.18333 of 2019 & 4862 of 2025

Madipakkam North East
Residents' Welfare
Association rep.by its
President Mr.M.Anbalagan

...Petitioner in
WP.No.18333 of
2019

G.Jayalakshmi

...Petitioner in
WP.No.4862 of
2025

Vs

1.The State of Tamil Nadu, rep.
by its Secretary, Revenue
Department, Fort St.George,
Chennai-9.

2.The Assistant Commissioner
(Competent Authority), Urban
Land Tax & Ceiling, Alandur,
O/o the Urban Land Tax,
Karuneegar Street,
Adambakkam, Chennai-88.

...Respondents in
WP.No.18333 of
2019



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- 3.The Secretary to Government
of Tamil Nadu, Revenue
Department, Fort St.George,
Chennai-9.
- 4.The Director-cum-Special
Commissioner of Urban
Land Ceiling & Tax, Ezhilagam,
Kamarajar Salai, Chepauk,
Chennai-5.
- 5.The Assistant Commissioner of
Urban Land Ceiling & Tax,
No.153, Karuneegar Street,
Adambakkam, Chennai-88.
- 6.The Tahsildar, Sholinganallur
Taluk, Sholinganallur, Chennai.

...Respondents in
WP.No.4862 of
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PETITIONS under Article 226 of The Constitution of India praying
for the issuance of

(i) a Writ of Certiorarified Mandamus to call for the entire records
culminating in the issue of the impugned order in Na.Ka.No.1638/98
dated 28.10.1999 and passed by the 2nd respondent relating to the
acquisition proceedings in respect of the land belonging to the
petitioner's members who are residents of Survey No.105/2,
Madipakkam Village (Rajaji Nagar) Chennai, quash the same and



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direct the respondents to treat the proceedings as abated under Section 4 of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act (Act 20 of 1999) (WP.No.18333 of 2019); and

(ii) a Writ of Certiorarified Mandamus to call for the impugned proceedings of the third respondent in R.C.No.B/580/2024 dated 18.12.2024, quash the same and consequently direct the respondents 1 to 3 to grant no objection to the 4th respondent to mutate the revenue record and accordingly grant patta to the land with an extent of 2520 sq.ft situated in plot No.112, Rajaji Nagar 1st Street comprised in Old Survey No.105/2, New Survey No.105/111 as per patta No.371 situated in Madipakkam Village, Sholinganallur Taluk, Chennai District in the petitioner's favour and her children (WP.No. 4862 of 2025).

For Petitioner in
WP.No.18333 of 2019

: Mr.B.Mohan

For Petitioner in
WP.No.4862 of 2025

: Mr.S.P.Sudalaiyandi

For Respondents in
both the WPs

: Mr.P.Sathish, AGP



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COMMON ORDER

W.P.No.18333 of 2019 has been filed by a residents' welfare association challenging the proceedings dated 28.10.1999 issued by the second respondent namely the Assistant Commissioner of Urban Land Ceiling & Tax-Alandur, Chennai-88 and to declare the proceedings initiated under Section 4 of the Tamil Nadu Urban Land (Ceiling & Regulation) Repeal Act (Act 20 of 1999) (for short, the Act) in respect of the property belonging to the members of the petitioner association, who are residents of Survey No.105/2, Madipakkam Village (Rajaji Nagar), Chennai.

2. W.P.No.4862 of 2025 has been filed by an individual challenging the proceedings of the Assistant Commissioner of Urban Land Ceiling and Tax, Chennai-88 dated 18.12.2024 and for a direction to respondents 1 to 3 to grant no objection to the fourth respondent to mutate the revenue records in the name of the petitioner in respect of the property measuring 2,520 sq.ft situated in plot No.112, Rajaji Nagar 1st Street comprised in Old Survey No.105/2, New Survey No.105/111 as per patta No.371, Madipakkam Village, Sholinganallur Taluk, Chennai District.

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3. The petitioner in WP.No.4862 of 2025 also owns lands in the same survey number namely S.No.105/2 and hence, the result in W.P.No.18333 of 2019 will have a bearing on the petitioner in WP.No. 4862 of 2025. Hence, both the writ petitions were taken up together, heard and disposed of through this common order.

4. Heard the respective learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents in both the writ petitions.

5. The case of the petitioner in W.P.No.18333 of 2019 is as follows:

(i) A layout was formed in S.No.105/2 at Madipakkam Village, Sholinganallur Taluk and individual plots were sold to various persons from the year 1984 by the original land owners namely one Mr.K.Chandrasekaran, one Mr.K.Padmanabhan and one Smt.V.R. Sundaravalli. After purchase of the plots by the members of the petitioner association, individual patta was also granted to them and they applied for sanction of building plan. After receiving the sanction, they also constructed houses and were in possession and enjoyment of

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the same.

(ii) At a later point of time, the members of the petitioner association came to know that the subject property formed part of proceedings initiated under the Act and attempts were made to take possession of the same. Notices were served and they were put to challenge by filing suits and those suits were also decreed.

(iii) The common notice issued by the Assistant Commissioner, Urban Land Tax & Ceiling - Alandur, Chennai-88 dated 28.10.1999 informing the members of the petitioner association that they could apply under the innocent purchasers' scheme, has been put to challenge in W.P.No. 18333 of 2019 and a consequential direction is sought to declare that the proceedings initiated under the Act has lapsed.

(iv) In so far as the petitioner in W.P.No.4862 of 2025 is concerned, she has come before this Court with a specific case that her property bearing new S.No.105/111 is not even the subject matter of the proceedings under the Act and that when she applied for the issuance of patta, the same was not entertained on the ground that she must get a no objection certificate from respondents 1 to 3. The proceedings of the Assistant Commissioner of Urban Land Ceiling &

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Tax, Chennai-88 dated 18.12.2024 has been put to challenge in W.P.No.4862 of 2025.

6. A counter affidavit has been filed in W.P.No.18333 of 2019 by the Assistant Commissioner of Urban Land Ceiling & Tax, Alandur Zone wherein he took the following stand :

(i) The notice under Section 7(2) of the Act dated 29.3.1985 was issued to the land owners to file returns under Section 7(1) of the Act. Since the land owners did not file their returns, draft statements under Section 9(1) dated 14.10.1985 along with notice under Section 9(4) of the Act were issued jointly for the proposed acquisition of land measuring 43,950 sq.meters, which was found to be the excess vacant land. On receipt of the same, two of the original land owners of the subject property filed their objections on 02.12.1986 and 15.12.1986 stating that they sold 40 cents of land to several persons during the period from 1984 to 1985.

(ii) The objections were considered and thereafter, the notice was issued for inquiry. On 15.10.1987, orders were passed under Section 9(5) of the Act declaring 43,775 sq.meters as excess vacant lands in various survey numbers. As against the same, the original



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land owners filed an appeal dated 16.12.1987 under Section 33 of the Act before the Special Commissioner and Commissioner of Land Reforms, Chennai-5 and it was dismissed by proceedings dated 03.2.1988 with a finding that the sale made by the original land owners is null and void under Section 6 of the Act.

(iii) The final statement under Section 10(1) of the Act was issued on 25.3.1988 and the Notification under Section 11(1) of the Act was issued on 30.9.1988 and it was published in the Government Gazette on 30.11.1988. Thereafter, the Notification under Section 11(3) of the Act was issued on 12.4.1989 and published in the Gazette on 10.5.1989. Further, the notice under Section 11(5) of the Act was issued on 26.5.1989. The possession was taken and handed over to the Revenue Authorities on 30.9.1989.

(iv) In view of the same, the entire procedure under the Act was followed scrupulously and the petitioners, who are the subsequent purchasers, do not have any right since the sale made in their favour is null and void as the possession has been taken over before coming into force of the Act. Accordingly, he sought for dismissal of W.P.No. 18333 of 2019.



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7. The same counter is adopted in W.P.No.4862 of 2025.

8. This Court has carefully considered the submissions of the respective learned counsel on either side and perused the materials available on record and more particularly the impugned orders.

9. In the case in hand, the original owners of the subject property obtained necessary approval for the formation of a layout and started selling individual plots in favour of various persons starting from 12.7.1984 onwards. This process was undertaken much prior to the issuance of the notice under Section 7(2) of the Act on 29.3.1985. That apart, when the original owners of the subject property submitted their objections to the notices received under Section 9(4) of the Act, they specifically stated that they had sold away 30 to 40 cents of lands during the period between June 1984 and July 1985. The objections raised by the original land owners were overruled and the appeal filed before the Special Commissioner and Commissioner of Land Reforms, Chennai-5 came to be rejected.



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10. It goes to prove the undeniable fact that the respondents were aware that the plots, which formed part of the excess lands, were already sold and were in possession of various persons, who are the members of the residents' welfare association.

11. On going through the original file, it is seen that the notice under Section 11(5) of the Act was issued to the original land owners and it was received and acknowledged by one of the original owners namely Mr.K.Padmanabhan. Till this stage, the procedure adopted by the respondents cannot be questioned and it was going in line with the procedure mandated under the Act and the Rules framed thereunder.

12. The only issue that arises for consideration in these writ petitions is as to whether the possession was taken over as mandated under Section 11(6) of the Act before coming into force of the Act.

13. It is not in dispute that the notices were not served on the occupiers of the land. Instead, the notices under Section 11(5) of the Act were served on the original owners of the subject property. Hence, it must be seen as to whether the possession was taken over by the



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respondents as per the procedure laid under Section 11(6) of the Act.

14. In the original records, it was shown as if the lands were delivered to the Firka Revenue Inspector, Alandur through the land delivery receipt dated 30.9.1989. However, there is absolutely no indication in the revenue records as to who delivered the possession of the lands. Even though it was attempted to be portrayed as if the original land owners have delivered possession, they have not signed in the land delivery receipt. Therefore, it is quite clear that the original land owners have not delivered possession of the subject property to the Firka Revenue Inspector, Alandur.

15. A similar issue with almost identical facts was dealt with by the First Bench of this Court in the case of ***State of Tamil Nadu Vs. Rane Brake Linings Limited [reported in 2020 (5) MLJ 129]***.

That was a case where the property was purchased after the coming into force of the Act and all the notices were issued to the original owner of the property. Ultimately, when it came to taking over possession under Section 11(6) of the Act, the First Bench held that it is mandatory under Section 11(6) of the Act for the Authorities to go

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to the land and take physical possession and that this will happen where the land owner does not surrender possession.

16. The relevant portions in the case of **Rane Brake Linings Limited** are extracted as hereunder :

".....

2. The writ petitioners/respondents claimed to have purchased the property from one Tmt.Lakshmiammal, w/o. Govindaraju Reddy by different sale deeds dated 24.03.1983, 31.03.1983, 28.03.1983 and 02.04.1983. The descriptions of lands are not being given in this judgment for the reason that they are not material.

.....

20. This Bench had an occasion to deal with the provisions of the Section 11 of the Ceiling Act in Principle Commissioner and Commissioner for Land Reforms v. B. Bhooshanam, 2020 SCC OnLine Mad. 152, wherein this Bench observed as under:

'9. While dealing with the question of vesting of land under Section 10(3) of the Ceiling Act which is *pari materia* to Section 11(3) of the Ceiling Act, the Hon'ble Supreme Court has in various decisions held that vacant land is deemed to have been acquired but acquisition does not



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mean taking over of the possession of the land. For taking possession of the land, the procedure contained under the sub-Section (6) of Section 10 para materia to Section 11(6) of the Tamil Nadu Act has to be followed. Under Section 11(3) what has vested is dejuræ possession and not de facto possession. Section 11(5) stipulates that any vacant land is vested in the State Government under sub-Section (3), the competent authority may, by notice in writing, order any person who may be in possession of it to surrender or deliver possession thereof to the State Government within thirty days of the service of the notice. Sub-Section 6 of Section 11 postulates that if a person refuses or fails to comply with an order made under sub-Section (5), the competent authority may take possession of the vacant land or cause it to be given to the State Government or to any person duly authorised by the State Government in this behalf and may, and for that purpose, use such forces as may be necessary. The procedure under Section 11(6), therefore, operates when the land owner fails to comply with the direction issued to him under 11(5) of the Act. Silence on the part of the land owner does not mean that the land owner has given possession and there is no necessity to comply with the procedure under Section 11(6) of the Ceiling Act.



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14. A perusal of the above position would show that Section 10(5) postulates that the land owner himself surrenders the possession. If the land owner does not surrender possession, then procedure under Section 10(6) of the Ceiling Act has to be adopted. Section 10(6) of the Ceiling Act, therefore, postulates that authorities must go to the land and take physical possession on the land itself. This procedure cannot be adopted while sitting inside the office of the authorities. Notice under Section 11(5) of the Act was served, on the land owners only by affixture. There is nothing to show where the notice was pasted. There is no witness to show whether there was actual pasting or not. The possession certificate only shows that the land was handed over by the Deputy Tahsildar to the Zonal Deputy Tahsildar. As observed earlier, the words "from the urban land owner" has been struck off. There is nothing on record to satisfy us that the Government took physical possession of the property from the land owners. There are no witnesses to show that the officers went to the land physically and took over possession which is normally done in favour of independent witnesses. It looks as if the entire exercise of affixture and taking over of the possession of the land was done inside the office of the respondents. This Court is of an opinion that there has to be some form of



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material showing service of notice under Section 11(5) of the Ceiling Act having being done through affixture. There has to be some material to show voluntary surrender of possession. In the absence of any material, it cannot be presumed that there has been a voluntary surrender of the land. In the absence of voluntary surrender of the land, the State Government will have to resort to the procedure under Section 11(6) of the Ceiling Act. Admittedly, Section 11(6) of the Ceiling Act has not been resorted to. The stand of the State Government that unless there is a physical resistance, Section 11(6) need not be resorted to at all, cannot be accepted.'

In the said decision, the State Government had placed reliance on another Division Bench of this Court in State of Tamil Nadu, Rep. by its Secretary, Revenue Department v. T.V. Antony, 2018 SCC Online Mad. 541, the said judgment was distinguished in the judgment of Principle Commissioner v. B. Bhooshanam (supra). The Division Bench judgment of the T.V. Antony (supra) has been set aside by the Hon'ble Supreme Court in T.V. Antony v. State of Tamil Nadu, 2019 SCC OnLine SC 1486.

21. This Court is of the view that the contention of the State Government that once the land had vested with the State Government under



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sub section (3) of Section 11 of the Ceiling Act, then there is no necessity of following the procedure under Section 10(5) or (6) is accepted, then the Repeal Act will lose its meaning. The Repeal Act had been brought out to save such lands of which actual physical possession had not been taken over by the State Government. The land receipt relied on by the appellant does not show that the procedure under Section 11(6) had been followed. In fact, the State Government has accepted that the actual physical possession was not taken.

22. The fact that the respondents are in possession of the property is actually admitted by the appellants in the counter affidavit. Paragraphs 4 and 10 of the counter affidavit read as under:—

'4. It is submitted that the petitioner had requested Government on 17.2.99 to allot the excess vacant land acquired in S. No. 95/1 and 95/2. Before finalizing the request the principal Act was repealed. In G.O.(Ms) No. 353, Revenue, dated 30.6.2000 Government had given directions to regularise the encroachment in the excess vacant land acquired under the provisions of the said Act. As per G.O.(Ms) No. 353, Revenue, dated 30.6.2000 the lands acquired under the said Act covered by encroachment may be regularised in favour of the encroacher, after collecting double



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time of the present market value of the land. The petitioner had given consent to pay the value. Hence, a report for collection of the value and regularization of the land is under perusal. Tvl. Rane Brake Linings in their letter dated 31.3.2005 had sent a cheque for Rs. 43,72,840/- towards the regularization. It was returned on 3.5.2005 stating that the amount has to be paid after the regularisation orders is passed for fixing the amount. Orders of regularization is pending. At this stage the petitioner has filed this present writ petition.

10. It is submitted that the averments made in paragraph 8 of the affidavit are not accepted. The possession of the excess vacant land was not handed over by the owner of the land on the date of commencement of the said Act even after receipt of the notice under section 1 1(5) of the said Act. The possession of the excess vacant land was handed over to the Revenue authorities on 29.6.90 by signing the land delivery receipt. The possession of the petitioner has to be treated only as an encroachment. The request of the Petitioner to allot the land is pending consideration.'

23. It is therefore undisputed that the land was in possession of the writ petitioners when the Repeal Act came into force even if the sale deed in their favour is treated to be void, being in



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contravention of Section 6 of the Ceiling Act. This issue is between the petitioner and the owner but it does reflect that actual physical possession was never taken over by the government. Since it was mandatory on the part of the Government to take actual physical possession from the land owner under Section 11(5) and 11(6) of the Ceiling Act, mere vesting under Section 11(3) does not amount to taking over of possession. The effect of holding the sale as null and void would only mean that the land owner was divested of the title over the property but he still possessed it and his possession could have been taken away only by following the procedure under the Ceiling Act. The land owner never voluntarily succeeded possession, rather he handed it and the petitioner which fact as stated above is also reflected from the counter affidavit of the State. The land receipt handing over and taking over by the Government authorities is only a paper transaction that does not establish taking over possession either from the land owner or the writ petitioner. The procedure which has been prescribed under Section 11(5) and 11(6) of the Ceiling Act has not been followed. It is not the case of the State that it took recourse to Section 11(6) for taking possession forcibly from the occupier. To the contrary the State negotiated regularisation of the



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land in favour of the writ petitioner."

17. In the case in hand, the respondents are aware of the fact that the members of the petitioner association, who purchased individual plots during the period from 1984 to 1985, were in possession and enjoyment of the same. This was informed to them much earlier by the original owners of the land when they submitted their objections. In view of the same, the respondents must establish that they took over possession of the subject property in accordance with Section 11(5) and/or 11(6) of the Act. The original records would show as if the possession was handed over to the Firka Revenue Inspector, Alandur. However, there is absolutely no indication as to the handing over of possession and the signatures of the original land owners are strikingly absent in the land delivery receipt.

18. Hence, it is pellucid that after the notice was issued under Section 11(5) of the Act to the original land owners, they did not hand over possession of the lands. In such an event, the possession ought to have been taken under Section 11(6) of the Act. If the same has not been done, the Repealing Act comes into effect and the

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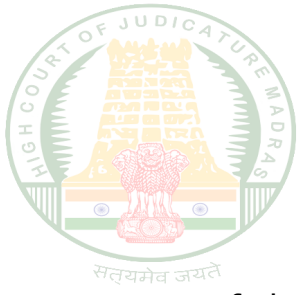
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proceedings itself lapses.

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19. It will also be relevant to take note of the judgment of the Apex Court in the case of ***M/s.A.P.Electrical Equipment Corporation Vs. Tahsildar & Others [Civil Appeal Nos.4526 and 4527 of 2024 dated 27.2.2025]*** wherein the Apex Court, after considering the earlier judgments, held that the mere vesting of the land under Section 10(3) of the Act would not confer any right on the Government to have de facto possession of the vacant land unless there has been a voluntary surrender of vacant land before coming into the force of the Act on 18.3.1999, that the burden of proof is upon the State to establish that there has been a voluntary surrender of vacant land or surrender and delivery of peaceful possession under Sub-Section (5) or forcible dispossession under Sub-Section (6) of Section 11 and that therefore, on failure to establish any of those situations, the land owner or the holder can claim the benefit of the Act.

20. In the case in hand, this Court holds that there is absolutely no material to show that the land owners have handed over possession



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of the subject property or forcible possession was taken over by the Authorities. In view of the same, the effect of the Act kicks in and the proceedings itself lapses.

21. In the light of the above discussions, the writ petitions are allowed as prayed for and it is declared that the land acquisition proceedings initiated has lapsed on the coming into force of Section 4 of the Act. No costs.

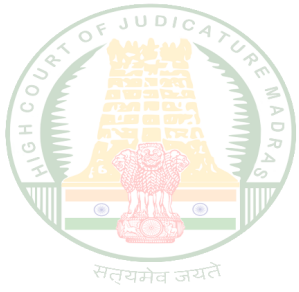
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Index : Yes
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