



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

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CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.10866 of 2021

Suresh Vaidyanathan

.... Petitioner

-Vs-

1.The Principal Commissioner & Commissioner
Land Reforms, Chepauk
Chennai 600 005.

2.The Asst. Commissioner/Competent Authority
Urban Land Tax (Alandur)
No.153, Karuneegar Street
Adambakkam
Chennai 600 089.

3.The Tahsildar
Alandur
14, Dairy Farm Road
Near Alandur Court
St. Thomas Mount
Alandur, Chennai 600 061.

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondents especially the order of the 2nd respondent under Section 9 (5) dated 28/10/1990 in reference Na.Ka.S.R.812/85 / B and notice under Section 11(5) dated 29/10/1993 vide Ref. Rc.1759 /93 B and quash the same in so far as land comprised



in Survey No.207/6 part now bearing No.207/6A1B measuring about 9600 sq.ft., Madipakkam Village, Velachery Talu, Chennai District measuring 3975 Sq.ft. so as to enable the 3rd respondent to correct the entry and there by incorporate the name of the petitioner as owner for the land referred to above.

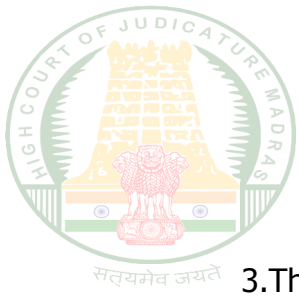
For Petitioner : Mr.V.Ramesh

For Respondents : Mr.A.Selvendran
Special Government Pleader
for R1 to R3

ORDER

This writ petition has been filed challenging the order passed by the 2nd respondent under Section 9(5) of the Tamil Nadu Urban Land [Ceiling & Regulation] Act [hereinafter referred to as 'the Act'] dated 28.10.1990 and the notice under Section 11(5) of the Act, dated 29.10.1993 and to quash the same insofar as the subject property is concerned.

2.The case of the petitioner is that the subject property was originally owned by two persons viz., Paulraj Nadar and Narayana Nadar. Both of them executed a sale deed dated 05.06.1965 in favour of the petitioner's father which was registered as Document No.1272 of 1965. The father of the petitioner was in possession and enjoyment of the subject property and he executed a deed of settlement dated 27.06.2007 in favour of the petitioner which was registered as Document No.2850 of 2007. Thereafter, the petitioner was in possession and enjoyment of the property.



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3.The further case of the petitioner is that he wanted to develop the property and hence approached the 3rd respondent. It was informed to the petitioner that the subject property is a subject matter of acquisition under the Act. The petitioner immediately made a representation to the 1st respondent and requested for correction in the revenue records. The 2nd respondent advised the petitioner to apply under the innocent purchaser category. Thereafter, the petitioner applied for the certified copy of the orders passed under the Act and has chosen to file the present writ petition.

4.The respondents have filed a counter affidavit. It is stated in the counter affidavit that the owner of the property is one Paulraj and he did not file any statement under Section 7(1) of the Act and hence a notice was sent to him by the competent authority directing him to file a statement. Since the notice was not able to be served, it was served by affixture on 13.10.1998. Since no statement was filed, notice under Section 9(4) of the Act along with the statement under Section 9(1) of the Act, was issued by the competent authority on 13.04.1989 by arriving at the excess vacant land at 9400 sq.metr, after allowing entitlement of 500 sq.metr. Since no objections were received from the urban land owner, the 2nd respondent inspected the land and subsequently orders were passed under Section 9(5) through proceedings dated 28.10.1990. This order was received by one Jayaraj, who happens to be the son of the urban land owner on 21.12.1990. Thereafter, the final statement



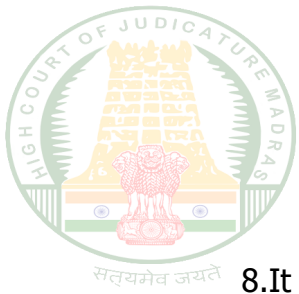
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under Section 10(1) was issued on 07.08.1992 in the name of Paulraj, who was represented by his son. This was not able to be served and hence it was served by means of affixture. Thereafter, notification under Section 11(1) of the Act was issued on 29.04.1993. It was published in the gazette on 26.05.1993. Notification under Section 11(3) was issued on 15.07.1993 and it was published in the gazette on 18.08.1993. Subsequently, notice under Section 11(5) was issued by the competent authority to the said Jayaraj on 29.10.1993, directing him to hand over possession of the acquired land. This was served on 21.12.1993. Thereafter, the possession was taken over.

5.The respondents have taken a stand that already the possession has been taken over and the acquisition proceedings have been questioned after a lapse of 27 years and therefore, there are no merits in this writ petition and the same is liable to be dismissed by this Court.

6.Heard Mr.V.Ramesh, learned counsel for the petitioner and Mr.A.Selvendran, learned Special Government Pleader for R1 to R3.

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



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8. It is not in dispute that the urban land owner viz., Paulraj had died on 20.05.1987. This was specifically informed by the son. In spite of the same, the son was made to represent the dead person and the order under Section 9(5) of the Act was issued on 28.10.1990 in the name of a dead person. Even thereafter, notices were issued only in the name of the dead person and the son was representing a dead person. The very procedure that was adopted by the respondents is illegal since right from the stage of the orders passed under Section 9(5) of the Act, the entire proceedings had continued in the name of a dead person which makes the proceedings illegal.

9. In the case in hand, the property had already been sold in favour of the petitioner's father as early as in the year 1965. In fact, apart from Paulraj, there was yet another owner called Narayana Reddy and both of them had executed the sale deed in the year 1965. Thus, after the petitioner's father had become the owner of the property, proceedings were initiated in the name of one of the owner who was dead. This is yet another reason as to why the proceedings of the respondents is liable to be interfered by this Court.

10. Insofar as taking possession of the property, it is seen from the original records that has been placed before this Court that the notice under Section 11(5) of

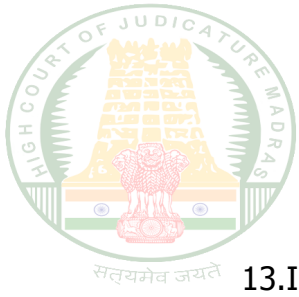


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the Act has been served on the wife of Jayaraj. This Court has already noted that the said Jayaraj is none other than the son of Paulraj in whose name the proceedings was continued.

11.If assuming that the notice was issued under Section 11(5) of the Act, there is absolutely no indication as to whether the property was surrendered. If the property is not surrendered, the respondents are expected to take possession of the land by following the mandate under Section 11(6) of the Act. There is absolutely no indication in the original records that such procedure was adopted. If that is the case, the proceedings itself will abate after the coming into the force of Act 20 of 1999.

12.For all the above said reasons, this Court holds that the proceedings are illegal since it has been initiated against the dead person. Since the possession had not been taken under Section 11(6) of the Act, the proceedings also abate. Hence, this writ petition is allowed and there shall be a direction to the 2nd respondent to act upon this order and the revenue records shall be restored in the name of the petitioner. This process shall be completed within a period of eight weeks from the date of receipt of copy of the order.



13. In the result, this writ petition is allowed in the above terms. No costs.

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22.04.2025

Index : Yes/No

NCS : Yes/No

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N.ANAND VENKATESH, J.

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