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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.02.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.Nos19600 of 2023 and 26059 of 2024
and WMP No.28470 and 28471 of 2024

WP No.19600 of 2023

1. P.Kasthuri Bai

2. P.Santhana Mary

..Petitioners

Vs.

1. Chennai Metro Rail Limited,
Rep. By its Managing Director,
No.327, Annasalai, Nandanam,
Chennai – 600 035

2. The District Revenue Officer (L.A.),
Chennai Metro Rail Limited.,
Anna Salai,
Nandanam, Chennai 600 035

3. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Department of Industries and Commerce,
Secretariat, Fort St. George,
Chennai 600 009

4. The Principal Commissioner and Commissioner of Land Reforms



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Commissioner of Land Reforms
Commissionerate of Urban and Land Ceiling and
Urban Land Tax
Chepauk, Chennai 600 005

5. The Secretary to Government,
Department of Revenue and Disaster Management,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai 600 009

6. The Assistant Commissioner (Urban Land Ceiling and Tax),
District Collectorate Complex,
State Bank Road,
Coimbatore 641 001

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of declaration declaring that the lands admeasuring an extent of 2613 Sq.ft comprised in S.No.59/13, (Previously S.No.59/2) at Virugambakkam Vilalge, Mambalam Guindy Taluk, Chennai District and S.No.59/12, Virugambakam Village, Mambalam, Guindy Taluk, Chennai District admeasuring an extent of 2613 Sq.ft. Are not excess vacant land as contemplated under the Tamil Nadu Urban Land (Ceiling and Regulation) act, 1978 and pass such further or other orders.

WP No.26059 of 2024

1. P.Kasthuri Bai

2. P.Santhana Mary

..Petitioners



Vs.

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Rep. By its Managing Director,
No.327, Annasalai, Nandanam,
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2. The District Revenue Officer (L.A.),
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Anna Salai,
Nandanam, Chennai 600 035
3. The State of Tamil Nadu,
Rep. By its Secretary to Government,
Department of Industries and Commerce,
Secretariat, Fort St. George,
Chennai 600 009
4. P.Selvaraj Nadar

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 2nd respondent pertaining to the impugned order bearing Na.Ka.No.005/Ni.A/Se.Me.Ra.Ni/2020 dated 30.11.2023 and quash the same.

For Petitioner : Mr.Richard wilson

in both WPs

For Respondents : Mrs.Rita Chandrasekar
Standing Counsel for CMRL
R1 and R2
Mr.A.Selvendran,
Special Government Pleader for
R3 to R6 in WP No.19600 of 2023



R3 in WP No.26059 of 2024

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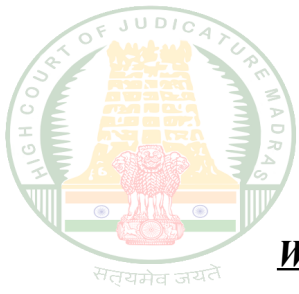
COMMON ORDER

The issue involved in both these writ petitions are interlinked and common and hence, they are taken up together, heard and disposed of through this common order.

2. WP No.19600 of 2023 has been filed seeking for a declaration to declare that the proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (herein after referred to as the “Act”) has lapsed with respect to the subject property.

3. WP No.26059 of 2024 has been filed challenging the proceedings of the 2nd respondent dated 30.11.2023 directing the petitioner to produce the relevant documents in order to ascertain and pay the compensation pursuant to acquisition of the property by the Chennai Metro Rail Limited (CMRL).

4. Both these writ petitions were heard on 06.02.2025 and the following orders were passed :-



WP No.19600 of 2023

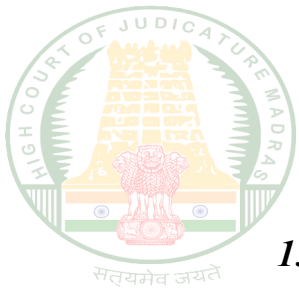
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On hearing either side, the case now boils down to only one issue as to whether the notice under Section 11(5) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 was properly served in line with Rule 8 of the Rules. In the earlier counter affidavit that was filed in WP.No.10772 of 2023, a stand has been taken in para 2(k) that the notice was sent to Tmt.Radhammal. In the counter affidavit that has been filed in the present writ petition, at paragraph 3, there is not even a mention as to whom the notice was sent and who had received that notice sent under Section 11(5) of the Act. Incidentally, Tmt.Radhammal was dead and gone as early as on 05.12.1975 and on going through the materials placed before this Court, it is seen that every other notice starting from notice under Section 7(2) of the Act has only been sent to the dead person Tmt.Radhammal.

2.If the notice has not been served as contemplated under Section 11(5) of the Act r/w Rule 8, there is no question of taking physical possession and as a consequence, the repeal Act will come into place and it will enure to the benefit of the petitioners.

3.The learned Additional Government Pleader shall produce the original records in this regard to establish as to how the notice under Section 11(5) was sent and served.

4.Post this case under the caption 'part heard cases' on



13.2.2025.

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WP No.26059 of 2024

In this writ petition, the learned counsel for the petitioners has taken a very specific stand that the petitioners will not stand in the way of the acquisition made by the Chennai Metro Rail Limited and they will not stand in the way of C.M.R.L proceeding further with the work considering the larger public interest. However, it was contended that while paying the compensation, the entire compensation for both the land and the superstructure must be paid to the petitioners. In the light of the above stand taken by the petitioners, the direction to pay the compensation will depend upon the final result in the connected case in W.P.No.19600 of 2023.

2.Post this case under the caption 'part heard cases' on 13.2.2025.

5. Pursuant to the above order, the matter was listed for hearing today and the original records were produced by the learned Special Government Pleader appearing on behalf of respondents 3 to 6 in WP No.19600 of 2023. On carefully going through the original records, it is seen that there is absolutely no indication that the notice under Section 11 (5) of the Act has been served on any



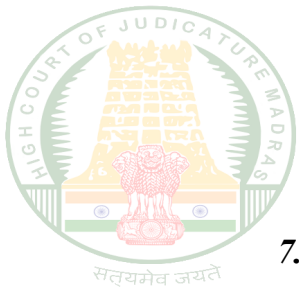
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one. Except for the notice, there is no acknowledgment available in the original records and there is also no indication as to whether any affixture was effected.

Even in the earlier order that was passed on 06.02.2025, this Court had taken note of the fact that the original owner of the property viz., Radhammal has died as early as on 05.12.1975 and on going through the original records, it is seen that all the notices starting from Section 7(2), have been issued only in the name of the dead person.

6. The only issue to be decided is as to whether the proceedings has lapsed by virtue of the Repeal Act, since the possession has not been taken in compliance with Section 11(5) of the Act.

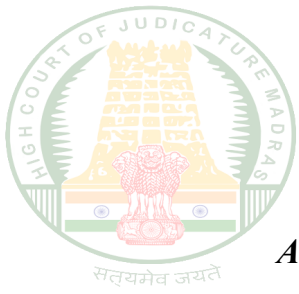
7. The law on this issue is no longer *res integra*. It will be relevant to take note of the judgement of the Division Bench of this Court in the case of **[Government of Tamil Nadu v. Nandagopal]** reported in **2011 4 MLJ 577** and for proper appreciation, Paragraph Nos.7 and 8 in that judgement are extracted hereunder :-



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7. In order to find out as to whether the notice as required under Section 11(5) of the Act read with Rule 8 of the Rules was served on the Respondents or not, we called for the records and perused. Admittedly, there is no such notice sent through registered post, except the Competent Authority affixing the said notice on the vacant site, which should be only a last resort after making an attempt to send the notice by registered post and in spite of the same, they could not be served with the notice. In that view of the matter, even assuming that the possession is said to have been taken as contended by the learned Special Government Pleader, such taking over of possession cannot be considered to be valid in the eye of law so long as the provisions of Section 11(5) of the Act read with Rule 8 of the Rules was not complied with. On this ground alone, the contention of the Respondents that in the event of physical possession not being taken in the prescribed manner, the provisions of the Repealing Act would come to the benefit of the Respondents must be accepted.

8. For the said reason, we are also of the considered view that the Respondents are entitled to the benefit of the Repealing Act and accordingly, we find no reason to interfere with the impugned order.



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Accordingly, the Writ Appeals are dismissed. However, the issue as to whether the State could claim the taking over of symbolic possession and hence the question of physical possession is necessary or not is left open. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

8. It is also relevant to take note of the judgement of the division Bench in *[The Government of Tamil Nadu, Rep. By the Commissioner and secretary to Government , Revenue Department, Secretariat, Chennai -9 and another Vs.M/s.Mecca Prime Tannery and others]* reported in 2012 4 LW 289. The Division Bench has taken note of all the earlier judgements including the judgement cited supra and has come to a conclusion that where the State has not taken possession of the property as contemplated under Section 11(5) of the Act, in the absence of a voluntary surrender by the owner or has not followed the procedure under Section 11 (6) of the Act, by virtue of the Repeal Act 20 of 1999, the proceedings itself will stand lapsed.

9. The above judgements will squarely apply to the facts of the



present case since the possession has not been taken in accordance with Section 11(5) or 11(6) of the Act. Accordingly, the writ petition filed in WP No.19600 of 2023 shall stand allowed.

10. Insofar as the relief sought for in WP No.26059 of 2024, this Court has already recorded the stand taken by the petitioners during the earlier hearing on 06.02.2025. In view of the same, the relief that has to be granted to the petitioners in this writ petition is to direct the payment of the entire compensation in their favour.

11. The learned Standing counsel appearing on behalf of CMRL submitted that the petitioners had earlier filed WP No.10772 of 2023 before this Court and pursuant to the orders passed by this Court, a cheque for a sum of Rs.1,87,07,470/- drawn in favour of the Registrar General, High Court of Madras, has been submitted before the Registrar General and it was also acknowledged.

12. Insofar as the above amount is concerned, the learned counsel for the petitioners submitted that it was a different stretch of land and by virtue of



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the order passed in WP No.19600 of 2023, the petitioners must be permitted to withdraw this amount.

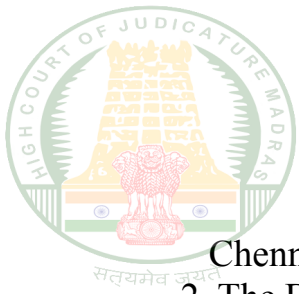
13. Insofar as the property that is the subject matter in WP No.26059 of 2024, the petitioners have been asked to attend the post award enquiry and whatever compensation amount is fixed, shall be paid to the petitioners. WP No.26059 of 2024 can be disposed of in the above terms.

14. In the result, WP No.19600 of 2023 is allowed and WP No.26059 of 2024 is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

14.02.2025

Index : Yes/No
Internet : Yes/No
Speaking Order / Non Speaking Order
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N. ANAND VENKATESH, J.

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