**THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 12.02.2025**

**CORAM :**

**THE HON'BLE MR.JUSTICE N.ANAND VENKATESH**

**W.P.Nos.32510 of 2024 and 3916 of 2025**
**and W.M.P.Nos.35330, 35331 of 2024 & 4341 of 2025**

1. K.Srimathi
2. L.Mohanavalli
3. K.Rajalakshmi .. Petitioners in WP.32510/2024

1. S.Malathi
2. S.Sowdhamini
3. S.Sudharsan .. Petitioners in WP.3916/2025

-vs-

1. The State of Tamil Nadu,
   Rep. by its Secretary,
   Department of Revenue and Disaster Management, Fort St. George,
   Chennai 600 009.

2. The Special Commissioner,
   Urban Land Tax and Urban Land Ceiling,
   Chepauk, Chennai 600 005.

3. The Assistant Commissioner,
   Urban Land Tax and Urban Land Ceiling,
   Collector Office Compound,
   Coimbatore 641 001.

4. The Secretary to Government,
   Home (Transport) Department,
   Government of Tamil Nadu,
   Fort St. George, Chennai 600 009.

5. The Regional Transport Office
   (Coimbatore North),
   Regional Transport Office (RTO) North,
   337, Vellakinar Road, Near CTC Colony,
   Thudiyalur, Coimbatore, Tamil Nadu 641 004.

6. The Tamil Nadu State Marketing Corporation
   Limited, Rep. by its Managing Director,
   Thalamuthu Natarajan Maaligai,
   Gandhi-Irwin Road, Egmore, Chennai 600 008. .. Respondents
   in both WPs.

Petitions filed under Article 226 of the Constitution of India praying for issuance of (i) WP.32510/2024 - Writ of Certiorarified Mandamus to call for the records relating to the Impugned Memorandum issued by the 3rd respondent, bearing Na.Ka.602/2023/A3, dated 19.06.2023 and quash the same in so far as it relates to the petitioners' plot bearing Plot No.132A situated in Survey no.7/3 of Saravanampatti Village, Coimbatore 641 035, and consequentially, direct the 3rd respondent herein to issue a "Clearance/No Objection Certificate" to the petitioners herein to the effect that the Subject Plot bearing No.132A situated in Survey No.7/3 of Saravanampatti Village, Coimbatore 641035, is exempted from the proceedings initiated under Urban Land Ceiling Act vide Order bearing Reference No.41/SR.349/80, dated 19.04.1983, passed by the 3rd respondent; and (ii) WP.3916/2025 - Writ of Mandamus directing the 3rd respondent herein to issue a "No Objection/Clearance Certificates" to the petitioners herein to the effect that the Subject Plot bearing No.132 situated in Survey No.7/3 of Saravanampatti Village, Coimbatore 641 035, is exempted from the proceedings initiated under Urban Land Ceiling Act vide Order bearing Reference No.41/SR.349/80, dated 19.04.1983 passed by the 3rd respondent.

| | | |
|---|---|---|
| For Petitioners in both WPs. | : | Mr.R.Venkat Raman |
| For Respondents in both WPs. | : | Mr.M.R.Gokul Krishnan<br>Addl. Govt. Pleader<br>for RR 1 to 5 |
| | : | Mr.K.Sathish Kumar<br>Stdg. Counsel for R-6 |

* * * * *

## COMMON ORDER

The issue involved in both these writ petitions are common and hence, both the writ petitions are heard and disposed of through this common order.

2. The petitioners have approached this Court challenging the impugned memorandum dated 19.06.2023 and also for a consequential direction to the third respondent to issue 'No Objection Certificate' to the petitioners to the effect that the subject property is exempted from the proceedings initiated under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (for brevity, hereinafter referred to as 'the Act') in line with the proceedings of the third respondent dated 19.04.1983.

3. The case of the petitioners is that one Sundara Swamigal was the urban land owner and he owned a vacant land measuring 9.54 acres in S.No.7/3 of Saravanampatty Village, Coimbatore. He converted the land into a layout by sub-dividing it into 148 plots and it was named as "Deeviga Nagar". Insofar as W.P.No.32510 of 2024 is concerned, vacant plots were purchased by the husband of the first petitioner and father of second and third petitioners through a registered sale deed dated 31.07.1976. Insofar as W.P.No.3916 of 2024, vacant plots were purchased by the husband of the first petitioner and father of second and third petitioners, through a registered sale deed dated 31.07.1976. These sale deeds were registered as Document Nos.3077 and 3078 of 1979 on 15.10.1979.

4. In the meantime, proceedings were initiated under the Act against the urban land owner in the year 1970 for owning urban land in excess of the ceiling limit. The third respondent is the competent authority who was empowered to conduct the proceedings. After a detailed enquiry, the third respondent passed an order dated 19.04.1983 under Section 9(5) of the Act. As per this order, the third respondent determined the extent of property that

was sold prior to 03.08.1976 (crucial date) as 16490 $M^2$. The third respondent also determined the extent of land sold by the Urban Land Owner as on 03.08.1976 as 22117 $M^2$. After considering the various objections, the third respondent determined the total excess land as 12385 $M^2$. Apart from that, the third respondent also determined an extent of 7372 $M^2$ towards roads.

5. The above order passed by the third respondent became final and the land that was purchased by the petitioners did not fall within the surplus lands as was determined by the third respondent. Therefore, the petitioners were seeking for a 'No Objection Certificate' to the effect that the plots owned by the petitioners is exempted from the Urban Land proceedings.

6. The third respondent has filed a counter-affidavit. The third respondent has taken a stand that the petitioners are the subsequent purchasers of the property which was already acquired and therefore, the very purchase of the property is null and void as per Section 6 of the Act. That apart, even though the sale deed is dated 31.07.1976, the registration was done only on 15.10.1979 and therefore, the effect of such sale will take

place only from 15.10.1979 by which time the land was already acquired. The third respondent has also taken a stand that the portion of the land purchased by the petitioners was not included in the excluded portion and therefore, the petitioners cannot take advantage of the proceedings of the third respondent dated 19.04.1983. Since the proceedings of the third respondent has become final, the petitioners cannot question the same and the petitioners are not entitled for 'No Objection Certificate' and accordingly, the third respondent has sought for the dismissal of the writ petitions.

7. Even though this counter-affidavit has been filed in W.P.No.32510 of 2024, the same stand can be extended for the writ petition in W.P.No.3916 of 2025, since the issue involved is the same.

8. Heard Mr.R.Venkat Raman, learned counsel appearing for the petitioners in both the writ petitions and Mr.M.R.Gokul Krishnan, learned Additional Government Pleader appearing for respondents 1 to 5 as also Mr.K.Sathish Kumar, learned standing counsel appearing for respondent No.6.

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

10. In the case in hand, the third respondent, while issuing the proceedings dated 19.04.1983 under Section 9(5) of the Act, determined the excess land which was falling within the acquisition as follows:

> *(6) In the above circumstances, clarification was sought for from the Commissioner of Land Reforms, Madras as to whether the layout is to be treated as an approved one or not. In D.Dis.40920/81/J3/dt.9.3.82 to Commissioner of Land Reforms has issued instructions to acquire the house sites sold after 3.8.76 and the shopping centre. The extent of land held and the land worked out as surplus and decided already is as follows:*

| | | |
|---|---|---|
| *Extent of the land held in S.No.7/3 of Saravanampatty Village* | -- | *9.54 acres or 38607 $M^2$* |
| *Extent sold prior to 3.8.76* | -- | *16490 $M^2$* |
| *Extent held by the ULO as on 3.8.76* | -- | *22117 $M^2$* |
| *<u>Deduct</u> Roads* | -- | *7372 $M^2$* |
| | | ---------- |
| | | *14745 $M^2$* |
| *His entitlement u/s 5(1)(i)(B) of the Act* | -- | *1500 $M^2$* |
| | | ---------- |
| | | *13245 $M^2$* |

*The above 13245 $M^2$ is the surplus extent of land on computations and state of things on ground. The area works out to 12385 $M^2$ and this has been adopted as the excess vacant land. This includes the shopping centre area and the house sites sold after 3.8.76."*

Even in the counter-affidavit that has been filed, it has been mentioned in para 14 as follows:

*"14. With regard to the averments contained in Para 13 to 17 of the affidavit, it is submitted that as per revenue records the land in S.F.No:7/3 of Saravanampatty Village, Coimbatore stands registered in the name of Thiru.Sundaraswamigal Gowmara Madalayam. He filed the statement u/s 7(1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (Act 24 of 1978) in respect of 9.54 acres (38607 sq.mts.) in S.F.No.7/3 above. It is said that it is an ancestral property, but the trust has no registered document with them. The Competent Authority, the Assistant Commissioner/the 3rd respondent herein took action to acquire the excess vacant in the above S.F.No:7/3. Following due procedures under the above act, necessary notices were issued to the above Urban Land Owner. His representative filed objections stating that the subject land was laid out as*

*plots and approval obtained from the Rural Housing Development Council before 03.08.1976 and requested to exempt the above approved lands. Thus, out of total extent of 38607 sq.mts in S.F.No:7/3, deleting the portion sold before prior to 03.08.1976, road portion, and allowing 1500 sq.ft. as the owner's entitlement, an extent of 12385 sq.mts. were declared as excess vacant land u/s 9(5) of the above Act by the 3rd respondent in his S.F.No:349/8 dated 19.04.1983. After this, the 2nd respondent issued instruction in his letter dated: 31.03.1987 for recomputation of excess vacant land. Accordingly, after following due procedure u/s 9(1) and 9(4) of the Act, and after rejecting the objections raised by the above land owner, the 3rd respondent passed his orders u/s 9(5) of the Act, on 09.01.1990 in S.R.No:108/86/A2, declaring 20617 sq.mts. as excess land out of 38607 sq.mts. owned by the Urban land owner. The details of the acquired portion of the land are as follows:*

| | | |
|---|---|---|
| 1. | Total extent held by the Urban Land Owner: | 38607 sq.mts. |
| 2. | Retainable Portion (Eligibility): | 1,500 sq.mts. |
| 3. | Balance Extent: | 37,107 sq.mts. |
| 4. | Out of 146 Plots sold, 96 plots were sold before 03.08.1976 and excluded in the acquisition, not including the petitioners purchased land | 16,490 sq.mts. |
| 5. | Excess vacant land arrived and acquired | 20,617 sq.mts. |

*It is further submitted the calculation made in Para 17* *of the affidavit is wrong. The portion of land purchased by the petitioners are not included in the excluded portion of acquisition. The petitioners have projected the earlier orders passed on 19.04.1983 and not the order dated:09.01.1990 after recomputation."*

11. The short issue that arises for consideration is as to whether plots that were purchased by the petitioners will fall under the exempted category or it will fall within the lands that were acquired under the Act.

12. There is no dispute with regard to the fact that the sale deeds were executed on 31.07.1976. These sale deeds were presented for registration on 20.09.1976 and they were registered as Document Nos.3077 and 3078 of 1979 on 15.10.1979. The respondents have taken a stand that since the registration has taken place subsequent to the crucial date (03.08.1976), the subject property also forms part of the acquisition.

13. To decide the above issue, this Court has to take into consideration the effect of Section 47 of the Registration Act, 1908. This

provision makes it clear that the date of execution of the document is the prime factor to consider the validity of the document and the registered document will operate from the time from which it would have commenced to operate, if no registration thereof is required and not from the time of its registration. Normally, the ownership and title to the property will pass on to the purchaser on registration of the sale deed with effect from the date of execution of the sale deed. Hence, Section 47 of the Registration Act creates a fiction regarding the date on which the effect of registration will take place. Thus, where the document is presented earlier, but it is registered subsequently, it relates back to the date of presentation.

14. In the instant case, even though the sale deeds were executed much prior to the crucial date, the registration had taken place subsequently and hence, it cannot be said that it will have effect only from the date of registration and thereby, the plots will fall within the scope of acquisition under the Act. In fact, the third respondent, while determining the land that has been already dealt with by the Urban Land Owner, has taken into consideration all these plots. Therefore, apart from relying upon Section 47 of the Registration Act, the petitioners are relying upon the proceedings of

the third respondent dated 19.04.1983. In view of the same, the petitioners will be entitled for the No Objection Certificate from the third respondent.

15. In the result, both the writ petitions are allowed and there shall be a direction to the third respondent to issue No Objection Certificate to the petitioners to the effect that the subject property, namely Plot Nos.132 and 132A (each 4 cents) of S.No.7/3 of Saravanampatty Village, Coimbatore, is exempted from the proceedings initiated under the Urban Land Ceiling Act. Necessary proceedings shall be issued within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, miscellaneous petitions are closed.

12.02.2025

Index : Yes
Website : Yes
Speaking Order

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To

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

2. The Special Commissioner,
   Urban Land Tax and Urban Land Ceiling,
   Chepauk, Chennai 600 005.

3. The Assistant Commissioner,
   Urban Land Tax and Urban Land Ceiling,
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4. The Secretary to Government,
   Home (Transport) Department,
   Government of Tamil Nadu,
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5. The Regional Transport Office
   (Coimbatore North),
   Regional Transport Office (RTO) North,
   337, Vellakinar Road, Near CTC Colony,
   Thudiyalur, Coimbatore, Tamil Nadu 641 004.

6. The Managing Director,
   The Tamil Nadu State Marketing Corporation
   Limited, Thalamuthu Natarajan Maaligai,
   Gandhi-Irwin Road, Egmore, Chennai 600 008.

N.Anand Venkatesh, J.

(sra)

W.P.Nos.32510 of 2024 and
3916 of 2025

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