



W.A No. 2573 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-09-2025

CORAM

THE HON'BLE MR JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

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AND

CMP.No. 20555 of 2025

1.The Principal Commissioner and
Commissioner of Land Reforms,
Chepauk, Chennai-5.

2.The Competent Authority
Urban Land Ceiling
Kundrathur Zone,
Kancheepuram District.

3.The Tahsildar,
Sriperumbudur Taluk,
Kancheepuram District.

..Appellants

Vs



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1. Mohammed Ali

2.N. Nabeesha Begum

3.N.Nabeel Ahmed

..Respondents

(R2 & R3 impleaded as respondents vide

Order of this Court dated 23.07.2025)

Writ Appeal is filed under Clause 15 of Letter Patent to set aside the order dated 09.07.2018 passed in W.P.No. 28744 of 2003.

For Appellants: Mr. M. Suresh Kumar, AAG

Asst. By Ms.M. Jayanthi, AGP

For Respondents : Ms. Aiswarya S. Nathan – R2 & R3

JUDGMENT

(Made by ***HEMANT CHANDANGOUDAR, J.***)

This intra-court appeal assails the order dated 09.07.2018 passed by the learned Single Judge in W.P. No. 28744 of 2003. In the said order, the learned Single Judge held that the physical possession of the excess land belonging to the writ petitioner had not been taken by the State till 16.06.2009 under Section 11(5) or 11(6) of the Urban Land (Ceiling and Regulation) Act, 1978 (hereinafter referred to as “the Act, 1978”). Consequently, the vesting of



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ownership of the excess land in the State under Section 11(3) of the Act, 1978 would stand effaced, and the ownership of the excess land would stand revived in favour of the declarant/writ petitioner. The State, therefore, could not disturb the physical possession of the excess land belonging to the writ petitioner.

2. The land comprised in Survey No. 430/1, Mangadu Village, Sriperumbudur Taluk, which is the subject matter of the present appeals, had been declared as excess land under Section 11(3) of the Act, 1978, vesting in the Government free from all encumbrances. The said order of vesting was issued on 23.11.1998.

3. As the physical possession of the said land was not taken by the Government following the order passed under Section 11(3) of the Act, 1978, the writ petitioner contended that the order passed under Section 11(3) of the Act, 1978 stood effaced by operation of Section 3(2) of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act, 1999 (hereinafter referred to as “the Repeal Act, 1999”). On this basis, the writ petitioner approached this Court in the aforesaid writ petition. The learned Single Judge, after hearing the parties, passed the impugned order. Taking exception to the same, the present writ



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appeals have been filed by the State.

4. Mr. M. Suresh Kumar, learned Additional Advocate General appearing for the appellant, contended that Section 3(2) of the Repeal Act, 1999 is not applicable to the subject land, as possession of the land had already been taken prior to the commencement of the Repeal Act, 1999. This, according to him, is evident from the entries made in the Revenue Records, which reflect the substitution of the Government's name. Therefore, he submitted, the impugned order of the learned Single Judge is not legally sustainable.

5. In response, Mrs. Aishwarya S. Nathan, learned counsel appearing for respondents 2 and 3, submitted that the said respondents are purchasers of the subject land prior to the initiation of proceedings under the Act, 1978 and were impleaded by virtue of the Court's order dated 23.07.2025. She further submitted that the physical possession of the land was never taken by resort to Section 11(5) or 11(6) of the Act, 1978. Therefore, as lawful possession had not been taken, the order passed under Section 11(3) of the Act, 1978 stood effaced by virtue of Section 3(2) of the Repeal Act, 1999. In support of her submissions, she placed reliance on the judgment of the Hon'ble Supreme Court in A.P.



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Electrical Equipment Corporation v. Tahsildar and Ors., ([2025] SCC OnLine SC 447; Civil Appeal Nos. 4526–4527 of 2024, decided on 27.02.2025).

6. The arguments advanced by the learned counsel for the parties and the materials placed on record have been duly considered.

7. The State has not produced any material to substantiate that the writ petitioner had voluntarily surrendered the excess land vested with the Government under Section 11(3) of the Act, 1978, as contemplated under Section 11(5) of the Act, 1978. Nor has the State produced any document to establish that physical possession of the excess land was taken in accordance with Section 11(6) of the Act, 1978.

8. A similar issue came up for consideration before the Hon'ble Supreme Court in A.P. Electrical Equipment Corporation (supra). The Apex Court, at paragraph 41, laid down the proposition of law governing the issue of possession in the context of Sections 11(5) and 11(6) of the Act, 1978, read with Section 3 of the Repeal Act, 1999, which reads as follows:

"41. The propositions of law governing the issue of possession in context with Sections 10(5) and 10(6) respectively of the Act, 1976 read with Section 3 of the Repeal Act, 1999 may be summed up thus:



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[1] The Repeal Act, 1999 clearly talks about the possession being taken under Section 10(5) or Section 10(6) of the Act, 1976, as the case may be.

[2] It is a statutory obligation on the part of the competent authority or the State to take possession strictly as permitted in law.

[3] In case the possession is purported to have been taken under Section 10(6) of the Act, 1976 the Court is still obliged to look into whether “taking of such possession” is valid or invalidated on any of the considerations in law.

[4] The possession envisaged under Section 3 of the Repeal Act, 1999 is de facto and not de jure only.

[5] The mere vesting of “land declared surplus” under the Act without resuming “de facto possession” is of no consequence and the land holder is entitled to the benefit of the Repeal Act, 1999.

[6] The requirement of giving notice under sub-sections (5) and (6) of Section 10 respectively is mandatory. Although the word “may” has been used therein, yet the word “may” in both the subsections should be understood as “shall” because a Court is obliged to decide the consequences that the legislature intended to follow from the failure to implement the requirement.

[7] The mere vesting of the land under sub-section (3) of Section 10 would not confer any right on the State Government



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to have de facto possession of the vacant land unless there has been a voluntary surrender of vacant land before 18th March 1999.

[8] The State has to establish by cogent evidence on record that there has been a voluntary surrender of vacant land or surrender and delivery of peaceful possession under sub-section (6) of Section 10 or forceful dispossession under sub-section (6) of Section 10.”

9. A similar view has been taken by a Division Bench of this Court in W.A. No. 1194 of 2018, as well as by a learned Single Judge of this Court in W.P. No. 32700 of 2003.

10. In light of the admitted fact that the physical possession of the excess land has not been taken either under Section 11(5) or Section 11(6) of the Act, 1978, the order passed by the competent authority under Section 11(3) of the Act, 1978 stands effaced by operation of Section 3(2) of the Repeal Act, 1999. The learned Single Judge, while interpreting the provisions of the Act, 1978 and the Repeal Act, 1999, and relying upon the decision of the Hon’ble Supreme Court in State of Uttar Pradesh v. Hari Ram [(2013) 4 SCC 280], has rightly passed the impugned order. Furthermore, mere entries in the revenue records indicating that possession of the excess land was taken cannot be treated as compliance with Sections 11(5) and 11(6) of the Act, 1978. Such “paper



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possession” cannot be construed as lawful possession in the eye of law.

Therefore, we do not find any infirmity or illegality in the impugned order of the learned Single Judge.

11. Accordingly, the writ appeal stands dismissed. Consequently, the connected miscellaneous petitions are closed. There shall be no order as to costs.

(R.S.K. J.,) (H.C. J.,)

23.09.2025

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