
(1990) 08 MAD CK 0081
In the Madras High Court

K. Ramachandran

APPELLANT

Vs

Special Commissioner and Commissioner for Land Reforms
and Another

RESPONDENT

Date of Decision : 31-08-1990

Acts Referred:

Tamil Nadu Urban Land Tax Act, 1966 — Section 10, 3(p), 33

Citation : (1991) 1 LW 689 : (1990) 2 MLJ 496

Hon'ble Judges : Govindasamy, J

Bench : Single Bench

Judgement

Govindasamy, J.—The petitioner has filed the above writ petition for issue of a writ of certiorarified mandamus to quash the orders of the

first respondent dated 27.7.1984 in his proceeding in D.Dis.2722/84 and to direct the second respondent to decide the case again in accordance

with the provisions of law. The petitioner owned and possessed land of an extent of about 45-1/2 cents, which is equivalent to 1800 square meters

approximately, comprised in R.S. No. 210/2 and situated in Thiruvanmiyur village. The family of the petitioner consists of the petitioner, his wife

and his son on the date when the Act viz., The Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 (Act 24 of 1978) (hereinafter referred

to as the Act) came into force with effect from 3.8.1976. u/s 3(p) of the Act, vacant land means, land not being land mainly used for the purpose

of agriculture, in an urban agglomeration, but does not include (i) land on which construction of a building is not permissible under the building

regulations in force in the area in which such land is situated. After commencement of the Act, the petitioner submitted a return in accordance with

the provisions of the Act. The Assistant Commissioner by his proceedings No.

1684/81, dated 5.12.1983, in exercise of the powers conferred u/s

10 of the Act, determined the vacant land held by the petitioner in excess of the ceiling limit as shown in the final statement in Form III which was

enclosed therein. In Form III it is specified that the petitioner's family was permitted to hold within the ceiling area of 1500 square metres and also

determined that an extent of 300 square metres was surplus. Aggrieved by the said order, the petitioner preferred an appeal u/s 33 of the Act

before the Commissioner of Land Reforms. The Commissioner of Land Reforms by the impugned order dated 27.7.1984 in D.Dis.2722/84 held

that it was reported that the land was vacant and that according to the provisions of the Act, the request of the urban land owner to allow

peripheral clearance area to a vacant land cannot be considered and accordingly rejected the appeal. It is at this stage, the petitioner has filed the

above writ petition for the (sic) relief to quash the said order.

2. Mr. S. Gopalaratnam, Senior Counsel appearing for the petitioner contended that the definition in Section 3(p) is to the effect that vacant land

means, land not being land mainly used for the purpose of agriculture in an urban agglomeration, but does not include (i) land on which construction

of a building is not permissible under the building regulations in force in the area in which such land is situated. The learned Counsel further

contended that if a building is constructed, the appurtenant area of about more than 461 square metres has to be kept in tact, over which

construction of a building is not permissible as per building rules and regulations in the area and consequently that area cannot be considered as

vacant land within the meaning of Section 3(p) of the Act.

3. Mr. M. Govindarajan, learned Additional Government Pleader represented that the land in question comes within the provisions of Section 3(p)

and consequently the impugned order is sustainable under law. Considering the aforesaid contentions, the contention put forward by the learned

Counsel for the petitioner is sustainable in law in view of the fact that over an area of 461 square metres, construction of a building is not

permissible as per rules and regulations applicable to building agglomeration. Consequently, the plea that Section 3(p) of the Act is applicable to

the said area and it can be consumed as vacant land cannot be accepted. In view of the aforesaid conclusion arrived at, the impugned order cannot

be sustained and it is liable to be set aside and accordingly it is hereby set aside. Consequently it is held that the petitioner is holding the entire land within the ceiling limit under the provisions of Act. The writ petition is allowed and the Rule Nisi is made absolute. No costs.