

(2011) 01 MAD CK 0116

In the Madras High Court

Case No : Writ Petition No. 15836 of 2006

Mrs. Chandra Ananthasayanam

APPELLANT

Vs

The Special Commissioner and Commissioner for Urban Land
Ceiling and Urban Land Tax and The Assistant Commissioner/
Competent Authority Urban Land Tax

RESPONDENT

Date of Decision : 31-01-2011

Acts Referred:

Constitution of India, 1950 — Article 226
Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 — Section 11(1), 11(3),
11(5), 12(6), 12(7)

Citation : (2011) 01 MAD CK 0116

Hon'ble Judges : M. Jaichandren, J

Bench : Single Bench

**Advocate : A. Ramu, for the Appellant; S. Gopinathan, Additional Government
Pleader, for the Respondent**

Final Decision : Dismissed

Judgement

M. Jaichandren, J.—This writ petition has been filed praying for a writ of declaration, to declare that the land, having an extent of 2399

square meters, comprised in old survey No. 65/2, T.S. No. 2/1, in block No. 22 of Saidapet Village, Guindy-Mambalam Taluk, Chennai District,

belongs to the Petitioner, absolutely, in view of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

2. It has been stated that the Petitioner had purchased 96 cents of land in Resurvey No. 65/2, in patting. 19, in Anjaneyar Koil Street, (Hospital

Road), Saidapet, Chennai, by way of a sale deed, dated 19.9.1960, registered as document No. 2411 of 1960, on the file of the office of the Sub-

Registrar, Saidapet. Since then, the Petitioner has been in exclusive possession and enjoyment of the said property.

3. It has been further stated that, while so, the second Respondent had passed the impugned proceedings, No. A3.A13/SDT/78, dated

16.8.1979, holding that an extent of 4,399 square meters of land is in excess. It had also been held that 2,000 square meters of land was permitted

tube retained by the Petitioner, as the family entitlement. The remaining extent of 2,399 square meters had been determined as excess vacant land.

4. It has been further stated that the retainable area had been subdivided as T.S. Nos. 2/2 and 2/1. On 1.6.1985, the second Respondent had

passed the final orders, in his proceedings C-2/2239/86, dated 27.11.1995, undergo. Ms. No. 472, Revenue Department, allotting the front

portion of the land, in T.S. No. 2/2, to the Petitioner, for which she had been paying the urban land tax.

5. It had been further stated that the physical possession of the excess vacant land had not been takeover, by the second Respondent. It has been

in the exclusive possession and enjoyment of the Petitioner.

6. It had also been stated that the land in old survey No. 65/2, T.S. No. 2/1, in block No. 22 of Saidapet Village, to an extent of 2,399 square

meters, is also in the absolute possession and enjoyment of the Petitioner, as she has been using it for the parking of vehicles. Since, the

Respondents had not taken physical possession of the said land, it should be deemed to belong to the Petitioner, after the Urban Land (Ceiling and

Regulation) Repeal Act, 1999, had come into force, on 16.6.1999. In such circumstances, the Petitioner had preferred the present writ petition

before this Court, under Article 226 of the Constitution of India.

7. In the counter affidavit filed on behalf of the Respondents, it has been stated that the Tamil Nadu Urban Land (Ceiling and Regulation) Act,

1978, had come into force, with effect from 3.8.1976. The Petitioner had filed the returns, u/s 7(1) of the Act, on 9.8.1978, showing 668 square

meters, in R.S. No. 294, old No. 65/2, Tambaram village, 5,186 square meters, in T.S. No. 2, block 22 Saidapet village, and 1,289, square

meters, in R.S. No. 1731/29 (part), in Mylapore village, as her lands. She had also given a letter, on 9.8.1978, stating that she had proposed to

surrender the excess vacant land of 5,186 square meters, in T.S. No. 2, block 22, Saidapet Village.

8. It has been further stated that on inspection, it had been found that the land

in Mylapore village was not a vacant land, as there was a dwelling unit in the said land. Therefore, an extent of 2,399 square meters had been declared as the excess vacant land in the other two properties belonging to her. A notice, u/s 9(4) and a statement u/s 9(1) of the Act had been issued, in Rc. No. A3/A13/Saidapet/78, on 19.12.1978, and it had been served on her, on 26.12.1978. The urban land owner had raised objections, on 9.1.1979, stating that as the retainable portion of the land had certain disadvantages, she was willing to surrender the entire stretch of land, in T.S. No. 2, block 22 of Saidapet village, measuring an extent of 3931 square meters.

9. It has been further stated that, based on her representation, she had been asked as to whether she would agree to execute the sale deed in favour of the Government and surrender possession of the land, within a time framed fixed by the competent authority. In spite of the letter having been served on the Petitioner and even after a number of reminders had been sent, there was no response from the Petitioner. Therefore, an order, u/s 9(5) of the Act, had been passed by the competent authority, on 16.8.1979, declaring an extent of 2,399 square meters, as the excess vacant land. The final statement, u/s 10(1) of the Act had also been served on the Petitioner. After the sub-division of the property had been recorded, notifications, under Sections 11(1) and 11(3) of the Act had been published in the Thailand Government gazettes, on 5.11.1980 and 11.2.1981, respectively. Thereafter, the land in question was deemed to have vested with the State Government, free from all encumbrances, with effect from 20.1.1981. Thereafter, notice, u/s 11(5) of the Act had been served on the Petitioner, on 28.4.1981 and a notice, u/s 12(7) of the Act had been issued, on 29.5.1981 and served on the Petitioner, by way of registered post. Thereafter, proceedings, u/s 12(6) of the Act had been issued, in Ref. No. A3/4488/79, dated 27.6.1981, and it had been served on the Petitioner, on 4.7.1981. Thereafter, the Petitioner had made a request to exempt the excess vacant land for the purpose of constructing houses for the economically weaker sections of people.

10. It has been further stated that the said requestor the Petitioner had been rejected by the Government, by its letter, dated 16.2.1990. Thereafter, as the Petitioner had not received the amount paid as compensation, it had been

kept in the revenue deposits. Further, the appeal filed by the Petitioner, u/s 33 of the Act, dated 3.10.1992, before the Special Commissioner and Commissioner of Land Reforms, had also been rejected, by an order, dated 8.3.1993, on the ground that the excess land had already been taken over, in the year, 1981, and it had been allotted to the Adi Dravida Welfare Department, in the year, 1983, itself. In the meantime, the Petitioner had filed a writ petition, in W.P. No. 7075 of 1993, reiterating her requests to allow her to retain the land in the front portion. The State Government had accepted her request and passed an order, in G.O. Ms. No. 472, Revenue Department, dated 1.6.1995, permitting the urban land owner to retain the front portion, as the family entitlement and declaring the extent of 2,399 square meters of excess vacant land to be given to the Adi Dravida Welfare Department.

11. It has been further stated that, based on the said orders, this Court had dismissed the writ petition, in W.P. No. 7075 of 1993, as withdrawn, on 18.10.1995. A copy of the sub-division records had also been sent to the Petitioner, in Rc. No. 2239/86, dated 1.11.2002. Therefore, the claims made by the Petitioner are devoid of merits.

12. It had also been stated that the land allowed to be retained by the Petitioner, as the family entitlement, had been used for the purpose of constructing multi-storied apartments and the apartments had also been sold to various persons. In such circumstances, the contentions raised on behalf of the Petitioner cannot be sustained.

13. In view of the averments made in the affidavit filed in support of the writ petition and in the counter affidavit filed on behalf of the Respondents, this Court is of the considered view that the Petitioner, hasn't shown sufficient cause or reason to grant the reliefs, as prayed for by the Petitioner, in the present writ petition.

14. Nothing has been shown on behalf of the Petitioner to substantiate her claims. Having participated in the entire process, under the various provisions of the Thailand Urban Land (Ceiling and Regulation) Act, 1978, and after having made a request for retaining the front portion of the property in question and having obtained favorable order from the State Government, as per her request, it would not be open to the Petitioner to claim that she would also be entitled to retain the excess vacant land, as prayed

for in the present writ petition, in respect of the land, having an extent of 2,399 square meters, in old survey No. 65/2, T.S. No. 2/1, in block No. 22 of Saidapet village, in Chennai District. As such, the writ petition is devoid of merits. Hence, the writ petition stands dismissed. No costs. Connected M.P. Nos. 15604 of 2006 and M.V.M.P. No. 2131 of 2006 are closed.