

(2013) 02 MAD CK 0104

In the Madras High Court

Case No : Writ Petition No. 3402 of 2007

M/s. Anchor Breweries Limited

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 15-02-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Urban Land (Ceiling and Regulation) Repeal Act, 1999 — Section 3, 4

Citation : (2013) 3 MLJ 287 : (2013) WritLR 546

Hon'ble Judges : P.R. Shivakumar, J

Bench : Single Bench

Advocate : AR.L. Sundaresan for M/s. AL. Ganthimathi, for the Appellant; S.P. Prabakaran, Addl. Govt. Pleader for R1 to R3, for the Respondent

Final Decision : Allowed

Judgement

P.R. Shivakumar, J.—This Writ Petition has been filed under Article 226 of the Constitution of India for the issuance of a Writ of

Declaration declaring that the proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect of the petitioner's lands

of an extent of 800 sq.mts. comprised in R.S. Nos. 127, 128, 129, 132, 134 (part) stand lapsed and for other orders as this Hon"ble Court may

deem fit and proper in the facts and circumstances of the case. The petitioner is a Public Limited company incorporated for manufacturing

brewerage. For the establishment of its factory, it purchased lands comprised in R.S. Nos. 126, 127, 128, 129, 132 and 134 of Porur village

having a total extent of 18955 sq.mts. under a registered sale deed dated 22.01.1973 from one V. Olagammai Achi. Thereafter, the petitioner was

in possession and enjoyment of the said lands. Meanwhile, the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 came to be enacted and

the petitioner company submitted its return u/s 7 in Form VII on 15.10.1978. The returns were processed and the third respondent issued an order rejecting the objections made by the petitioner and holding that an extent of 800 sq.mts. of land was the excess land in the possession of the petitioner company over and above the ceiling. The said extent held to be excess holdings of vacant land in the hands of the petitioner was proposed to be acquired under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978.

2. The petitioner company preferred an appeal before the second respondent and the second respondent, by an order dated 28.06.1983, dismissed the same. Thereafter, notification u/s 11(1) was published in the Tamil Nadu Government Gazette dated 02.05.1984 and notification u/s 11(3) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 was published in the Gazette on 15.08.1984. Meanwhile, the petitioner applied to the first respondent for the grant of exemption for the excess holding of the land. The said request was also rejected by the Government in their order dated 06.07.1988. Again the petitioner prayed for re-consideration and the said application for re-consideration was also rejected on 15.08.1989.

3. Challenging the rejection of the said application for reconsideration, the petitioner filed a writ petition in W.P. No. 7650/1989 before this court.

This court, by an order dated 16.07.1998, dismissed the said writ petition holding that, all the objections raised by the petitioner for the proposed acquisition, were considered and properly rejected. Then the first respondent informed the petitioner that the petitioner could apply to the

Allotment Committee for allotment of the said land if such application was made and the same would be considered on merits. Meanwhile, the

Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 came to be repealed by Act 20 of 1999 with effect from 16.06.1999.

4. It is the contention of the petitioner that after the repealing of the Parent Act, all the proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 stood lapsed and abated and the only saving provided therein is that the properties, possession of which had already been taken by the Government under the Parent Act, namely Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, would not be disturbed.

Contending further that, all along the period of litigation regarding the acquisition under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, the petitioner was in physical possession of the lands and the Government did not take physical possession from the petitioner in the manner contemplated under the Act, the petitioner has come forward with the present Writ Petition for a declaration that the proceedings in respect of the above said property of the petitioner under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, which has been repealed by Act 20 of 1999, stands lapsed and abated.

5. The respondents have come forward with a contention that even before the Parent Act was repealed by the Repeal Act (Act 20 of 1999), possession was handed over by the competent authority to the Revenue Department and necessary entries in the revenue records were made, that the same would show that possession had been taken pursuant to the vesting of the property on the Government on the publication of notification u/s 11(3) of the Parent Act, namely Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 and that therefore, the Repeal Act, did not have any effect on the vesting of the property on the Government and the possession of the Government. Based on the said averments, the respondents have contended that the present writ petition for declaration that the proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, stand lapsed and abated so far as the properties concerned in the writ petition, has got to be discountenanced.

6. The arguments advanced by Mr. AR.L. Sundaresan, learned Senior Counsel appearing for Mrs. AL. Ganthimathi, counsel on record for the petitioner and by Mr. S.R. Prabakaran, learned Additional Government Pleader representing the respondents 1 to 3 are heard. The petition, affidavit of the petitioner, counter affidavit of the respondents and the reply affidavit of the petitioner are also taken into consideration.

7. Learned Senior Counsel for the petitioner submits that, as per the scheme of Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 on the publication of notification u/s 11(3) of the said Act, the vacant land declared to be the excess vacant land held by the petitioner shall be deemed to have vested absolutely in the government free from all encumbrances with effect from the date specified in the declaration made under sub section

(3) of Section 11 of the Act. If possession was not taken pursuant to the said declaration in accordance with the procedure contemplated under sub-section (5) or sub section (6) of Section 11 of the Parent Act, it shall be construed that the proceedings under the Parent Act, namely Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, the vesting of the property in the government would not be complete to attract the saving clause found in Section 3 of the Repeal Act; that since possession was not taken pursuant to the publication of the declaration u/s 11(3), proceedings for acquisition under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 should be construed to have been pending and that hence so far as the land of the petitioner, which was declared to be the excess holdings of vacant land in the hands of the petitioner the proceedings did not attain finality, stand lapsed and abated on the Repeal Act coming into force.

8. It is the further contention of the learned Senior Counsel for the petitioner that any secret arrangement or the mere entry made in the records would not amount to taking of physical possession; that either the possession should have been surrendered or delivered by the petitioner either to the government or to any person duly authorised by the State government in this behalf, which shall be evidenced by his acknowledgment in writing or in case of refusal or failure on the part of the petitioner to comply with the order under sub-section (5) of Section 11 to surrender or deliver possession thereof, the competent authority should have taken possession of the vacant land using necessary force, if any resistance was made; that in the absence of taking delivery in either of the above said methods, the mere entries made in the records will not be enough to prove that physical possession of the land was taken by the government; that since actual possession continued to be with the petitioner and the government did not take possession either under sub section (5) or (6) of Section 11 of the Act, the proceedings regarding the properties of the petitioner concerned in this writ petition stand abated and the land which was deemed to have vested in the government on the publication of the declaration u/s 11(3) stands reverted back to the petitioner.

9. Per contra, the learned Additional Government Pleader would contend that actual possession was taken much prior to 16.06.1999, the date on

which the Repeal Act came into force and hence the proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect

of the petitioner's property had already come to an end and the vesting of the property on the government became concluded and that hence the

saving clause provided u/s 3 of the Repeal Act is attracted to protect the title and possession of the government. It is the further submission made

by the learned Additional Government Pleader that, on 07.06.1999 itself possession was delivered by the competent authority to the Revenue

Department and necessary entries in the revenue records were also made and in view of the same, the contention of the petitioner that physical

possession of the petition mentioned property had not been taken by the government pursuant to the declaration published u/s 11(3) of the Tamil

Nadu Urban Land (Ceiling & Regulation) Act, 1978, should be discountenanced.

10. As an alternative argument, the learned Additional Government Pleader submitted that even if it is assumed that possession in the manner

contemplated u/s 11(5) or 11(6) had not been taken by the government or the competent authority the property stood vested with the government

free from all encumbrances from the date of publication of such 11(3) declaration and that the possession of the petitioner thereafter shall be

unauthorised equivalent to the possession of a trespasser and that hence legal possession should be deemed to have been with the government as

on the date of the Repeal Act coming into force attracting the saving provision found in section 3 of the Repeal Act.

11. This court paid its anxious consideration to the above said submissions made on both sides.

12. The petitioner has come forward with a clear case that though declaration under sub section (3) of Section 11 was published in the Tamil Nadu

Government Gazette dated 15.08.1984 to the effect that the land held to be excess holdings of vacant land in the hands of the petitioner was

deemed to have been acquired by the government and such land was deemed to have vested absolutely with the government free from all

encumbrances with effect from the date specified in the notification, the proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation)

Act, 1978 did not get terminated and the vesting of the property was not complete since physical possession of the property was not taken in the

manner known to law and that hence, the proceedings initiated by the competent authority under the Parent Act, stood lapsed and abated on the coming into force of the Repeal Act (Act 20 of 1999).

13. Section 3 of the Repeal Act (Act 20 of 1999) protects the vesting of the title with the Government only if possession was taken prior to the

Repeal Act coming into force in accordance with Section 11(5) and 11(6) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978. Even

the payment of compensation by the Government and acceptance of the same by the urban land owner, without the possession of the property

being taken, will not cause termination of the proceedings to attract the exemption provided u/s 3 of the Repeal Act (Act 20 of 1999). In such

cases, the section imposes a condition that only on refund of the amount paid as compensation the land shall be restored to the owner. For better

appreciation, section 3 of the Repeal Act (Act 20 of 1999) is extracted here under.

3. Savings.- (1) The repeal of the principal Act shall not effect.-

(a) the vesting of any vacant land under sub-section (3) of Section 11, possession of which has been taken over by the State Government or any

person duly authorised by the State Government in this behalf or by the competent authority.

(b) The validity of any order granting exemption under sub-section 1 of Section 21 or any action taken thereunder.

(2) Where -

(a) any land is deemed to have vested in the State Government u/s (3) of Section 11 of the Principal Act but possession of which has not been

taken over by the State Government or any person duly authorised by the State Government in this behalf or by competent authority; and

(b) any amount has been paid by the State Government with respect to such land, then such land shall not be restored unless the amount paid, if

any, has been refunded to the State Government.

It shall be abundantly clear that even in case of payment of compensation followed by publication of declaration u/s 11(3) will not cause

termination of the proceedings and the proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 shall be deemed to have

been continued till possession was taken. Hence the alternative argument advanced by the learned Additional Government Pleader that from the

date of publication of declaration u/s 11(3) the possession of the petitioner became unauthorised equivalent to that of a trespasser is bound to be rejected.

14. The petitioner's further case is that the manner in which possession was to be taken by the government has been contemplated in section 11(5)

and 11(6) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 (Parent Act) and that taking symbolical possession without following

the said procedure shall not be recognised as an act of actual taking of physical possession of the property to save the right of the government in

respect of the property which is deemed to have vested in the Government u/s 11(3) of the Parent Act. Section 11 of the Parent Act reads as

follows:

11. Acquisition of vacant land in excess of ceiling limit. - (1) As soon as may be after the service of the final statement u/s 10 on the person

concerned, the competent authority shall cause a notification giving the particulars of the vacant land held by such person in excess of the ceiling

limit and stating that -

(i) such vacant land is to be acquired by the State Govt.; and

(ii) the claims of all persons interested in such vacant land may be made by them personally or by their agents giving particulars of the nature of

their interests in such land, to be published for the information of the general public in the Tamil Nadu Government Gazette, and in such other

manner as may be prescribed.

(2) After considering the claims of the persons interested in the vacant land, made to the competent authority in pursuance of the notification

published under sub-section (1), the competent authority shall determine the nature and extent of such claims and pass such orders as it deems fit.

(3) At any time after the publication of the notification under sub-section (1) the competent authority may, by notification in the Tamil Nadu

Government Gazette declare that the excess vacant land referred to in the notification published under sub-section (1) shall, with effect from such

date as may be specified in the declaration, be deemed to have been acquired by the State Government and upon the publication of such

declaration, such land shall be deemed to have vested absolutely in the State Government free from all encumbrances with effect from the date so

specified.

(4) During the period commencing on the date of publication of the notification under sub-section (1) and ending with the date specified in the

declaration made under sub section (3) -

(i) no person shall transfer by way of sale, mortgage, gift, lease or otherwise any excess vacant land (including any part thereof) specified in the

notification aforesaid and any such transfer made in contravention of this provision shall be deemed to be null and void; and

(ii) no person shall alter or cause to be altered the use of such excess vacant land.

(5) Where any vacant land is vested in the State Government under sub-section (3), the competent authority may, by notice in writing, order any

person who may be in possession of it to surrender or deliver possession thereof to the State Government or to any person duly authorised by the

State Government in this behalf with thirty days of the service of the notice.

(6) If any person refuses or fails to comply with an order made under sub-section (5), the competent authority may take possession of the vacant

land or cause it to be given to the State Government or to any person duly authorised by the State Government in this behalf and may for that

purpose use such force as may be necessary.

The manner in which possession is to be taken after publication of the declaration u/s 11(3) is found in sub-sections (5) and (6) of Section 11.

Section 11(5) is to the effect that where any vacant land is vested in the state Government u/s 11(3), the competent authority may, by notice in

writing, order the person in possession of the property to surrender or deliver possession thereof to the State Government or to any person duly

authorised by the State Government in this behalf within 30 days from the date of service of such notice. If the person who is served with such

notice surrenders or delivers possession evidenced by an acknowledgment the Delivery Note or Surrender Note signed by such person. In case

such person refuses or fails to comply with the command made in the notice, then the competent authority could take possession and for that

purpose was empowered to use such force, if necessary, in case of resistance,. Therefore, the scheme of Act contemplates issuance of a notice

under sub-section (5) by the competent authority ordering the person in

possession to surrender or deliver possession of the land, held to be excess holding of the vacant land in the declaration made u/s 11(3), to the State Government or to any person duly authorised by the State Government. Both in the case of voluntary surrender or delivery of possession by the concerned person and in the case of taking possession u/s 11(6), it should have been preceded by the issue of a notice u/s 11(5) ordering the person in possession of the land to surrender or deliver possession to the government or to any person duly authorised by the government in this behalf within 30 days. Only thereafter possession could be taken under sub-section (6).

15. In this case, there is nothing on record to show that after the publication of 11(3) declaration, notice u/s 11(5) ordering the petitioner to surrender possession of the excess land was served on the petitioner. There is also no material to show that the petitioner, after declaration made under sub-section (3), voluntarily surrendered possession of the vacant land to the government. On the other hand, all along the petitioner was agitating the matter by contending that the land holding was not in excess of the land ceiling, then by seeking exemption and thereafter by filing appeal, followed by an application for reconsideration before hierarchy authorities and also by filing a writ petition in the High Court in W.P. No. 7650/1989. Of course, the said writ petition was dismissed holding that section 11(3) was made following the procedure and the same could not be quashed. However, there are materials to show that even after the disposal of the writ petition, possession of the land was not taken by the competent authority adopting the procedure contemplated in section 11(5) and 11(6) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978. In fact there is no material to show on which date and in which manner and in whose presence possession was taken by the competent authority. On the other hand, only a record has been created as if the property was handed over to the Revenue Department by causing entries to be made in the revenue records to that effect. This court is of the considered view that the same shall not be enough to show that actual physical possession of the property was taken by the Government to complete the proceedings for acquisition of the land under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978.

16. In this regard, when a similar question arose before a Division Bench of this court in W.A. Nos. 693 to 695/2003 (1. Annie Jacob, now

known as Mrs. Annie Jonathan Rep by Power Agent George Alexander, 2. Mrs. Susy Alexander, 3. Lyme George Appellants in W.A. No.

693/03, Thomas Jacob, Appellant in W.A. No. 694/03, Susy Alexander, Appellant in W.A. No. 695/03 vs. 1. The State of Tamil Nadu rep. by

its Secretary to Government, Revenue Department, Fort St. George, Chennai-9, 2. The Assistant Commissioner Urban Land Ceiling Chennai

Agglomeration, Alandur, Chennai-88, respondents in all WAs), the Hon''ble Division Bench held in categorical terms that if possession of the

vacant land was not taken in the manner contemplated u/s 11(5) and 11(6) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 then

it could not be held that physical possession was taken by the Government. The relevant paragraph in the said judgment is extracted here under:

8. There is nothing on the record to suggest that the competent authority issued any notice in writing directing the original land holder or the

appellants to surrender or deliver possession of the lands in question. Nothing has been produced to suggest that the original land holder or the

appellants refused or failed to comply with such order and on failure the possession of the lands were taken by force. In absence of such notice

u/s. 11(5) or action taken u/s. 11(6), a bald statement as made by the respondents that possession was taken on 10th Feb., 1995, cannot be

accepted.

17. Subsequently, the said view was followed by a learned single judge of this court in Nandagopal and another Vs. 1. The Competent Authority,

Urban Land Ceiling and the Assistant Commissioner, Urban Land Tax, Ambattur, Chennai-28, 2. The Commissioner and Director, Urban Land

Ceiling and Urban Land Tax, Chepauk, Chennai-5, 3. The State of Tamil Nadu, rep. by its Secretary to Government, Tamil Nadu Urban Land

Ceiling and Urban Land Tax, Fort St. George, Chennai-9 reported in 2008 (6) CTC 157. Another learned single judge of this court in S. Nasira

Anjum and Others Vs. The State of Tamil Nadu and Arvind Leathers Private Limited, has held that, in case no physical possession of the property

in dispute, was taken before the Repeal Act coming into force, the vesting of the land in the government alleged to be surplus land under the Tamil

Nadu Urban Land (Ceiling & Regulation) Act, 1978 would stand abated on the advent of the Repealing Act.

18. Yet another Division Bench of this court in *The Government of Tamil Nadu Vs. Nandagopal, Krishnappan, Nagammal and Govindu*, held that

since the mandatory notice u/s 11(5) of the Act was not issued to the person in possession in accordance with Rule 8, the alleged taking of

symbolic possession could not be considered to be valid in the eye of law. In the said case, referring to the mode of service of notice contemplated

u/s 11(5) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 r/w Rule 8 of the Rules, the Division Bench opined that since no notice

was sent through registered post and it was simply contended that the competent authority affixed the said notice on the vacant side, which could

have been done only as a last resort after making an attempt to send the notice by Registered Post, the said notice was not legally effective. It went

further to hold that in the event of physical possession not being taken in the prescribed manner, the provisions of the Repealing Act should come

to the benefit of the urban land owner. The relevant passage in the said judgment is extracted here under:

7. In order to find out as to whether the notice as required u/s 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.

19. Another Division Bench of this court in *V. Somasundaram, Nityakalyani and V. Sugandhi Vs. The Secretary to Government Revenue*

Department, The Assistant Commissioner (Land Reforms and Urban Land Ceiling) and S. Pitchai, expressed the view that in view of section 11(5)

of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, the competent authority was bound to issue notice in writing to any person who

may be in possession of the land to surrender or deliver possession thereof to the State Government or to any person duly authorised by the State

Government within 30 days time and that non-compliance of section 11(5) of the Act cannot be rectified at a later stage.

20. In Government of Tamil Nadu rep. by the Commissioner and Secretary to Government, Revenue Department, Secretariat, Chennai-9 and

Others vs. Mecca Prime Tannery rep. by its Managing Director Tmt. V. Jayakodi, Chennai-44 and others reported in [2012] 6 MLJ 273, another

Division Bench of this court held that after vesting of the land in the State u/s 11(3), the State has to initiate action for taking possession of the land

as evident from the provisions contained in sections 11(5) and 11(6) of the Act; that section 11(5) contemplated issuance of notice by the

competent authority to any person who might be in possession, to surrender and deliver possession of the land to the State Government or any

person duly authorised by the State government in that behalf; that if the owner of the land or the person in possession refused or failed to deliver

possession of the land to the competent authority, the latter might take possession of the land even by using a force, if necessary, as contemplated

u/s 11(6) of the Act and that the language used in section 11(3) of The Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 to the effect that

on publication of the declaration u/s 11(3), the excess land declared shall be deemed to have been acquired and shall be deemed to have vested

absolutely in the State Government free from encumbrances, would not mean that possession was deemed to have been taken. The Division Bench

in the said case has opined that after the publication of the notification u/s 11(3), which will have the effect of deemed vesting of the property in the

government free from encumbrances, steps should be taken to take possession of the land as contemplated u/s 11(5) and 11(6) of the Act; that

mere creation of records as if possession was delivered or possession was taken over without following the procedure contemplated u/s 11(5),

should not be recognised by the court and that the benefit of section 4 of the Repeal Act (Act 20 of 1999) will enure to the land owner. Similar

view was expressed by the Hon"ble Supreme Court in Mukarram Ali Khan Vs. State of U.P. and Others, . Relying on the said view expressed by

the Hon"ble Supreme Court in Mukarram case, in Vinayak Kashinath Shilkar Vs. Dy. Collector and Competent Authority and Others, the

Hon"ble Supreme Court again reiterated the view that if possession was not taken before the date of coming to force of the Repeal Act, the

proceedings under the Parent Act would stand lapsed and abated.

21. In a catena of cases, some of which were referred to in the above said paragraphs, it has been held, and by now it is a settled proposition, that

after the publication of the declaration u/s 11(3), steps should have been taken to take physical possession of the lands declared to be surplus and

in case possession was not taken before the advent of the Repeal Act, proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act,

1978 (Parent Act) shall be deemed to be one continuing as on the date on which Repeal Act came into force and hence the same would stand

lapsed and abated by section 4 of the Repeal Act. Only completed proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act,

1978 have been saved. Such a completion of the proceeding would have taken place only on taking physical possession of the property after the

publication of the declaration u/s 11(3). If the owner or the person in possession, pursuant to the declaration was ordered by a notice in writing u/s

11(5) of the Act and in obedience of the order such person surrendered or delivered possession and the same was accepted by the government or

the competent authority, then it would have been evidenced by a Delivery Note or the acknowledgment signed by the person concerned. In case

of refusal or failure to comply with the order, we cannot expect the authorities to get the signature of the person in the Delivery Note. In such

cases, physical possession would have been taken even by using force, if necessary. Such an act of taking forcible possession would arise only

after issuing a notice u/s 11(5). Any paper delivery and simple mutation in the revenue records shall not be enough to show that the physical

possession of the land was taken by the government. In this case, admittedly no notice u/s 11(5) of the Tamil Nadu Urban Land (Ceiling &

Regulation) Act, 1978 was issued to the petitioner. There is nothing on file to show that after the declaration u/s 11(3), possession of the land held

to be excess holdings was voluntarily delivered/surrendered by the petitioner either to the government or to the competent authority or anybody

authorised by the government in this behalf. There is also no record to show that after service of notice u/s 11(5), forcible possession was taken u/s

11(6). In fact, there is nothing on record to show that possession was taken on a particular day. On the other hand, records have been created as

if possession of the property was handed over to the Revenue Department on 07.06.1999. The Repeal Act came into force on 16.06.1999. Till

the Repeal Act came into force, no notice u/s 11(5) came to be issued calling upon the petitioner to surrender or deliver possession of the land to

the government. After the Repeal Act came into force, records seem to have been created by making an entry in the revenue records as if

possession was delivered to the Revenue Department by the competent authority on 07.06.1999. The same will not be enough to prove that

physical possession of the land had been taken prior to the said date. Hence this court has to accept the contention of the learned Senior Counsel

appearing for the petitioner that the proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect the property

concerned in the writ petition had not been concluded as on 16.06.1999, the date on which the Repeal Act (Act 20 of 1999) came into force

repealing the Parent Act, namely Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, since possession of the land had not been taken by

the Government or by the competent authority in the manner contemplated u/s 11(5) and 11(6) of the Parent Act and that the said proceedings by

the advent of the Repeal Act stand lapsed and abated.

For all the reasons stated above, this court comes to the conclusion that the writ petition succeeds and a Writ of Declaration declaring that the

proceedings under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 in respect of the petitioner's lands of an extent of 800 sq.mts.

comprised in R.S. Nos. 127, 128, 129, 132, 134 (part) stands lapsed, is issued in favour of the petitioner. However, there shall be no order as to

cost.