

non-fulfillment of the condition specified therein, the allotment made in favour of the petitioner did not materialise.

In the meanwhile, Ahmed Basha filed Writ Petition No.10563 of 1995 questioning the legality of order dated 02.06.1995. During the pendency of the writ petition, Ahmed Basha died and the writ petition, which had been transferred to the Special Tribunal was dismissed as having abated.

After about five years, the legal representatives of Ahmed Basha filed Writ Petition No.27949 of 2005 with the prayer that benefit of the Tamil Nadu Urban Land (Ceiling and Regulations) Repeal Act, 1999 (for short, '1999 Act') may be extended to them. They pleaded that possession of the land was still with them because the compensation had not been paid in terms of Section 11 and 12 of the 1978 Act. The petitioner sought its impleadment as a party to the writ petition by filing M.P.No.1099 of 2007.

While dealing with the question as to whether possession of the land was taken after paying compensation to the landowner, the learned Single Judge observed:

"7. The said Transfer Charge Certificate is only an exchange of letters between the officials to the effect that symbolic possession of the land in dispute was taken on 23.8.1990. Other than this, there is no record to show that physical possession was taken from the owners of the land.

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The specific averment made by the petitioners that in respect of the said land declared as surplus and consequently, stated to have been acquired under the Tamil Nadu Urban Land (Ceiling and Regulations) Act, 1978, no compensation has been paid, has not been denied in the counter affidavit filed by the respondents 1 to 3. It is also not the case of said respondents that they have paid compensation in respect of the excess land."

The learned Single Judge then referred to the provisions of 1999 Act and the judgment of this Court in Smt.Angoori Devi vs. State of U.P. and others JT 2000 Supplementary 1 SC 295 and held that the writ petitioners are entitled to the benefit of 1999 Act.

The writ appeal filed by the petitioner was dismissed by the Division Bench which agreed with the learned Single Judge that the proceedings under the 1978 Act will be deemed to have abated

because as on the date of commencement of the 1999 Act, possession of the land continued to be with the legal representatives of the deceased.

Having heard learned counsel for the petitioner and perused the record, we are satisfied that the reasons recorded by the learned Single Judge and the Division Bench of the High Court for holding that the legal representatives of Ahmed Basha are entitled to the benefit of 1999 Act do not suffer from any legal error and the impugned order does not call for interference under Article 136 of the Constitution.

The special leave petition is accordingly dismissed.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master