



W.P.(MD)No.16231 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 06.03.2024

Delivered on : 12.04.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.16231 of 2021

and

W.M.P.(MD)No.13075 of 2021

R.Rengasamy Reddiar

: Petitioner

Vs.

1.The Additional Chief Secretary/
Commissioner of Land Reforms,
Commissionerate of Land Reforms,
Ezhilagam, Chepuak,
Chennai- 600 005.

2.The District Revenue Officer,
District Collector Officer,
Tirunelveli District.

3.The Revenue Divisional Officer/Land Reforms,
Cheranmahadevi, Tirunelveli.

: Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the second respondent, dated 03.11.2020 bearing Pa.Mu.Ka.2/736/2020 and quash the same and direct



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the respondents to remove the wrong entries made in the Revenue Records as surplus, dry lands and Odai poramboke for the S.No.1431/1 to an extent of 5 acers, situated at Veppilankulam Village, Radhapuram Taluk, Tirunelveli District and consequently, to do necessary mutations in all the revenue records and to issue patta for S.No.1431/1 to an extent of 5 acers.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.S.R.A.Ramachandran,
Additional Government Pleader.

ORDER

The Writ Petition is directed against the order passed by the second respondent, dated 03.11.2020 and for direction to remove the entries made in the revenue records as surplus, dry lands and Odai poramboke in S.No.1431/1 of Veppilankulam Village, Radhapuram Taluk, Tirunelveli District and for issuance of patta to an extent of 5 acres in S.No.1431/1.

2. The case of the writ petitioner is that originally 19.53 acres of land in S.No.1453 was belonging to Rengasamy Reddiar and his brother Kumarasamy Reddiar; that the said Kumarasamy Reddiar died leaving behind his wife Thaiammal; that the said Thaiammal sold her half portion of land and executed a release deed in respect of remaining half portion in



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favour of Rengasamy Reddiar; that the property owned by Kumarasamy Reddiar came to be enjoyed by Rengasamy Reddiar and his legal heirs (i) Ramasubburayalu Reddiar; (2) Subbarayalu Reddiar; (3) Narayana Reddiar; (4) Balakrishna Reddiar; (5) Ramakrishna Reddiar born through his two wives; that a partition deed was entered into between the parties on 10.07.1953 and that 2.5 acres on the southern side and 5 acres on the western side were allotted to Ramasubburayalu Reddiar; that the petitioner's father Ramasubburayalu Reddiar had purchased the western portion of 1.25 acres of land along with $\frac{1}{4}$ share in the (kamalakinaru) well from one Piramuthammal on 03.09.1954 and subsequently purchased 1.25 acres of land along with $\frac{1}{4}$ share in the (kamalakinaru) well from one M.Shanmugam on 12.11.1957; that Ramasubburayalu Reddiar has executed a partition deed in favour of the petitioner vide document, dated 05.02.1970 and on that basis, the petitioner has become the owner of the land measuring 2.5 acres in S.No.1431.

3. It is the further case of the petitioner that his father during his lifetime had also executed a Will in favour of the petitioner's wife Balakrishnaveni, dated 30.07.2007, wherein he had given 2.50 acres of



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land; that the land in S.No. 1431 was subdivided as UDR.S.No.1431/1, wherein the land is measuring 2.02.5 hectares; that when the Government Officials had tried to encroach the land on 30.03.2017, the same was objected to that the petitioner came to know that in the revenue records 'A' Register the land bearing S.No.1431/1 has been shown as dry land odai poramboke; that since there was no progress subsequent to the representation made by the petitioner, he has filed a Writ Petition in W.P(MD)No.17940 of 2019 and this Court directed the respondents therein to consider the petitioner's representation, dated 28.04.2017 within a period of six weeks and that the second respondent had rejected the petitioner's claim vide proceedings, dated 03.11.2020 and that therefore, the petitioner is constrained to file the above writ petition challenging the order passed by the second respondent, dated 03.11.2020.

4. The defence of the respondents is that the petitioner wanted patta to the lands comprised in S.No.1431/1 of Veppilankulam Village, Tirunelveli District; that the second respondent has called for a report from the Tahsildar of Radhapuram and the Assistant Commissioner, Land Survey and Records; that the second respondent, conducted enquiry and



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the petitioner was given a personal hearing; that the land in S.No.1431/1 is mentioned as Government Taxed Fallow Land and as per the records of UDR, the said lands were comprised in patta No.9 standing in the name of Kumarasamy Reddiar and Rengasamy Reddiar; that the lands comprised in S.No.1431/1 in Veppilankulam Village were declared as Surplus Land as per the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961; that the said declaration was published in the Government Gazette No. 36(J), dated 12.09.1973; that the second respondent found that the lands in S.No.1431/1 of Veppilankulam Village stand as Surplus land and it was also duly declared as Surplus land as early as on 12.09.1973 and that therefore, the petitioner's request for UDR correction and consequent grant of patta cannot be considered.

5. It is not in dispute that the petitioner has earlier filed a writ petition in W.P(MD)No.17940 of 2019, seeking writ of mandamus, directing the District Revenue Officer to consider the petitioner's representation, dated 28.04.2017 to issue patta in the name of the petitioner in S.No.1431/1, Part-II of Veppilankulam Village, Radhapuram Taluk and the learned Judge of this Court, taking note of the defence of the



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respondents therein and considering the limited scope of the prayer sought for in the petition, directed the respondents to consider the petitioner's representation, dated 28.04.2017 and pass orders thereon, on merits and in accordance with law within a period of 6 weeks from the date of receipt of copy of that order. In pursuance of the directions of this Court, the second respondent has proceeded with enquiry and passed the impugned order.

6. It is the specific case of the second respondent that the land in S.No.1431/1 has been mentioned as Government Taxed Fallow Land and previously as per the records of the UDR, the said lands were comprised in Patta No.9, which stands in the name of Kumarasamy Reddiar and Rengasamy Reddiar.

7. The learned Additional Government Pleader appearing for the respondents would submit that the lands comprised in S.No.1431/1 in Veppilankulam Village were declared as Surplus Land as per the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961 and that the said declaration was also published in the Government Gazette No.36(J), dated 12.09.1973. He would further submit that subsequent to the



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declaration as Surplus Lands, they have taken steps to distribute the above mentioned Surplus Lands to the needy people, but the same could not be done as the petitioner's father encroached upon the said land and that since the land in dispute has already been declared as Surplus Lands as early as on 12.09.1973, the present prayer cannot be entertained.

8. It is not the specific case of the petitioner that the third respondent in pursuance of the directions of this Court has not conducted any enquiry and the petitioner was neither heard nor given any reasonable opportunity of being heard.

9. The second respondent in the impugned order has referred about the lands, which were declared as Surplus Land as per Section 18 of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961 and that they have taken steps to give patta to the eligible landless farmers, but the persons, who were allotted, had informed that since some other persons were residing there, they could not evict them. It is necessary to refer the following passages in the impugned order, dated 03.11.2020.



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“ உத்தரவு :

மேற்படி ஆவணங்களை பரிசீலனை செய்ததில் புல எண்.1431 என்பது தற்போது, புல எண்.1431/1 - தீர்வை ஏற்பட்ட தரிக - 5 ஏக்கர் எனவும், புல எண்.1431/2 ரயத்து புஞ்சை -14 ஏக்கர் 52 செண்ட் - பட்டா எண். 870 - ரெங்கசாமி ரெட்டியார் எனவும் உள்ளது.

இதில் புல எண்.1431/pt- ல் 5 ஏக்கர் நிலம் உபரி நிலமாக அரசால் அறிவிக்கப்பட்டுள்ளது. எனவே புல எண்.1431/1 ல் உள்ள 5 ஏக்கர் நிலம் உபரி நிலம் என்பது ஊர்ஜிதமாகிறது. மேற்படி உபரி நிலம் மனுதாரின் தந்தையின் ஆக்கிரமிப்பில் இருந்ததால் தேவையுள்ள நபர்களுக்கு முறையாக ஒப்படை செய்யப்படவில்லை என்பதும் தெரியவருகிறது.

மனுதாரர் பட்டா கோரும் இடம், 12.09.1973 அன்றே அரசால் உபரி நிலம் என அறிவிக்கப்பட்டுள்ளதாலும், தமிழ்நாடு நிலசீர்திருத்தம் (நி.உ.நி) சட்டம் 1691 - ன் பிரிவுகளின் படி மேற்படி அறிவிப்புக்கு எதிராக முறையான மேல்முறையீடு செய்யபட்டமைக்கோ அல்லது வழக்கு தாக்கல் செய்யப்பட்டு சம்பந்தப்பட்ட புலம் உபரி நிலமாக அறிவிக்கப்பட்டதற்கு எதிராக மனுதாரருக்கு சாதகமான உத்தரவுகள் பெறப்பட்டமைக்கான ஆதார ஆவணங்கள் ஏதும் தாக்கல் செய்யப்படாத நிலையில் மனுதாரின் கோரிக்கையினை ஏற்பதற்கு வழியில்லாத காரணத்தால் மனு தள்ளுபடி செய்து உத்தரவிடப்படுகிறது.”



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10. Considering the facts and circumstances of the case and also taking note of the main fact that the land in S.No.1431/1 has already been declared as Surplus Land as per the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961, this Court has no hesitation to hold that the second respondent has rightly dismissed the petitioner's claim and as such, the same cannot be found fault with. Hence, this Court concludes that the Writ Petition is devoid of merits and the same is liable to be dismissed.

11. In the result, the Writ Petition is dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

12.04.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
das



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K.MURALI SHANKAR,J.

DAS

Order made in
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Dated : 12.04.2024