

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.10217 of 2010

and

M.P.No.1 of 2010

Ravisankaran

...Petitioner

vs.

1.The Land Commissioner
Chepauk, Chennai-5

2.The Assistant Commissioner
(Land Reforms), Villupuram

3.The Collector
Thiruvallur, District Thiruvallur

4.The Thasildar
Gummidipoondi
Thiruvallur

5.Sakkarai Reddiar

6.Ramamoorthy Reddiar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus directing the respondents 1 to 4 to conduct enquiry on the petitioner's representation, dated 03.03.2010, pursuant to the orders in W.P.No.24081 of 2001, dated 12.08.2009.

For Petitioner : Mr.S.D.Balaji

For Respondents : Mr.P.Karthikeyan
Govt. Advocate for R1 to R4
R5 & R6 - Served

O R D E R

The prayer in the writ petition is for issuance of a writ of mandamus to direct the respondents 1 to 4 to conduct an enquiry on the petitioner's representation, dated 03.03.2010,

pursuant to the order, dated 12.08.2009, passed by the Division Bench of this Court in W.P.No.24081 of 2001.

2. The short facts of the case are as follows:

According to the petitioner, initially proceedings were initiated, against his foster mother Thirupoorammal, under the provisions of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act (Act 58 of 1961), as amended by Act 17/70 and 41/71. The concerned Authorized Officer conducted an enquiry and held that the said Thirupoorammal was holding an excess of 20.58 Standard Acres after allowing the exemption of 5.62 Standard Acres and after allowing the ceiling area of 15 Standard Acres. The Authorized Officer passed a final order, dated 12.08.1991, under Section 9(2)(b) of the Act, declaring that there was surplus of 20.58 Standard Acres in her name after allowing the ceiling area of 15.000 Standard Acres to be retained by the family.

3. The petitioner further submitted that the Government Gazette was published on 29.07.1981 against which C.M.A.No.7 of 1983 was filed before the Land Tribunal, Thanjavur and the Tribunal, by Judgment dated 16.05.1988, dismissed the appeal. Challenging the dismissal of the appeal, his foster mother filed a revision in C.R.P.No.2671 of 1988 before this Court and the same was subsequently transferred to Tamil Nadu Land Reforms Special Appellate Tribunal and re-numbered as T.R.P.No.396 of 1991. The Appellate Tribunal, by Judgment dated 17.09.1993, dismissed the revision. Therefore, on 19.02.1997, a final statement under Section 12-A of the Act was published. Against the said final statement, he filed a revision in D1/RP.No.17/98, before the second respondent.

4. Further, the petitioner has submitted that during the proceedings, his foster mother died executing a Will in his favour. Hence, he conducted the proceedings before the second respondent by placing contentions and offering alternative sites instead of the survey numbers declared as surplus by the Government. However, the second respondent rejected the revision. Aggrieved by the rejection of revision, he filed a revision before the Tamil Nadu Land Reforms Special Appellate Tribunal, in S.L.P.No.11 of 2000 and the Special Appellate Tribunal, by order dated 01.02.2001, dismissed the revision. Challenging the same, he filed a writ petition in W.P.No.24081 of 2001, before the Division Bench of this Court. The Division Bench of this Court, by Order dated 12.08.2009, held that the land owner is entitled to hold 10 Standard Acres as stridhana property in addition to the permitted 15 Standard Acres of the family holding.

5. The petitioner has further submitted that based on the order, dated 12.08.2009, the order of the Authorized Officer,

by proceedings in R.O.C.D.M.R.I.T13/PNI/70, dated 12.08.1981, was partly set aside by holding that the land owner is entitled to 10 Standard Acres in addition to 15 Standard Acres. In such circumstances, fresh enquiry has to be conducted and the land owner has to be allotted further 10 Standard Acres out of previously acquired 20.58 Standard Acres by way of previous proceedings. Hence, the respondents 1 to 4 have to conduct a fresh enquiry as per the Order of the Division Bench of this Court in W.P.No.24081 of 2001. In such circumstances, he sent a representation, dated 03.03.2010, to the concerned authorities. But, till date no enquiry has been conducted.

6. Further, the petitioner has submitted that in the meanwhile the respondents 4 and 5 tried to cut the trees in Survey Nos.291/1, 291/3, 191/2 and 239/3 of Sunnambukulam Village, Gummidipoondi Taluk, Thiruvallur District. They are locally influenced and claiming that the third respondent District Collector issued orders granting permission to the respondents 5 and 6 to cut down the trees. The said survey numbers are the subject matter of the previous proceedings in W.P.No.24081 of 2001 and the acquisition proceedings in D.M.R.I.T.13/PNI/70. Hence, he sent a legal notice by way of phonogram on 05.05.2010 to the District Collector and Tahsildar, Thiruvallur. But, till date no action has been taken by the respondents 1 to 4.

7. The petitioner has further submitted that the respondents 5 and 6 are threatening to cut down the trees and they have no right, title and interest over the property legally and there can be no derivation of title to them even assuming without admitting any Patta in their name as the same will not bestow the title to them. In such circumstances, their action is highly illegal and they are also not in possession of the said property. Their action in collusion with the concerned authorities is highly illegal and regrettable. Therefore, he has filed this writ petition seeking the relief as stated above.

8. The learned counsel appearing for the petitioner has submitted that the respondents had initiated land acquisition proceedings against the petitioner's foster mother Thirupoorammal under the provisions of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act (Act 58 of 1961). The Authorized Officer had conducted an enquiry and held that the petitioner's foster mother Thirupoorammal was holding an extent of 20.58 Standard Acres of land, after allowing the exemption of 5.62 Standard Acres and after allowing the ceiling area of 15 Standard Acres of land. As such, the surplus land had been acquired and for the said acquisition, a publication was published in the Government Gazette. Challenging the same, a civil miscellaneous appeal was filed

before the Land Tribunal and the same was dismissed. Subsequently, revision petition filed against the dismissal of civil miscellaneous appeal was also dismissed by the Tamil Nadu Land Reforms Special Appellate Tribunal. Subsequently, a final statement, under Section 12-A of the Act was published and challenging the same, the petitioner had filed a revision before the second respondent. During the pendency of the revision, the petitioner's foster mother expired after executing a Will in his favour. The petitioner raised a contention before the second respondent and offered an alternative site instead of the survey numbers declared as surplus by the Government. The second respondent rejected the revision of the petitioner. Challenging the rejection of revision, the petitioner filed a revision before the Tamil Nadu Land Reforms Special Appellate Tribunal and the said revision was also dismissed. Aggrieved by the same, he filed a writ petition before this Court and this Court has held that the land owner is entitled to hold 10 Standard Acres of land as sridhana property in addition to the permitted 15 Standard Acres of the family holding. Based on the order passed by this Court, the order of the Authorized Officer was partly set aside. In such circumstances, he sent a representation, dated 03.03.2010, to the concerned authorities, seeking fresh enquiry to allot further 10 Standard Acres of land as held by this Court. But, no enquiry has been conducted. In the meanwhile the respondents 4 and 5 have tried to cut down the trees standing in the lands in Survey Nos.291/1, 291/3, 191/2 and 239/3. This sort of illegal activities has to be restrained. Hence, the learned counsel has prayed this Court to allow this writ petition.

9. The learned Government Advocate appearing for the respondents 1 to 4 has submitted that if the petitioner has established his case before the Division Bench of this Court in W.P.No.24081 of 2001, then one more enquiry is not required. Actually, the subject matter of land has been acquired during 1981. The petitioner has lost his case before various competent forums. The claim of the petitioner is a belated one. Hence, the learned Government Advocate has prayed for dismissal of the writ petition.

10. On considering the facts and circumstances of the case, arguments advanced by the learned counsel on either side and on perusing the typed set of papers, this Court is of the view that the petitioner has sought for remedy as per the Order passed by Division Bench of this Court in W.P.No.24081 of 2001. This Court is not an executing Court to execute the Order passed by the Division Bench. As such, the writ petition does not generate sufficient force to allow it and the same is liable to be dismissed.

11. In the result, the writ petition fails and it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

sd/-
Assistant Registrar(CO)

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Sub-Assistant Registrar

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To:

- 1.The Land Commissioner,
Chepauk, Chennai-5.
- 2.The Assistant Commissioner,
(Land Reforms), Villupuram.
- 3.The Collector,
Thiruvallur, District Thiruvallur,
- 4.The Thasildar,
Gummidipoondi,
Thiruvallur.

+1 CC to MR.Jayashree Balaji Advocate. SR.NO.5402
+1 CC to Govt.Pleader. SR.NO.61443

W.P.No.10217 of 2010
and
M.P.No.1 of 2010

CO-CTK
JD 29/01/2016

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