

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2015

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.25731 of 2011

and

M.P.No.1 of 2011

C.J.Ramakrishnan

... Petitioner

vs.

1.The State of Tamil Nadu
rep.by the Secretary to Govt.
Revenue Department
Fort St.George, Chennai-600 009

2.The District Collector
Coimbatore District
Coimbatore

3.The Assistant Commissioner of
land Reforms-cum-the Authorized
Officer
Jai Bhavan, Gandhiji Road
Erode District, Erode

4.The Thasildar (South)
Hosur Road, Coimbatore

5.C.N.Ramalingam

6.C.N.Balachandiran

7.S.Manickam

(R7 impleaded as per order
dated 04.01.2013 in M.P.No.1 / 2012
in W.P.No.25731 / 2011)

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus directing the respondents 2 to 4 to complete the process of reversion U/s.18-D (2) of the T.N.Land Reforms (fixation of Ceiling on Land) Act, 1961, by restoring actual physical possession of Agricultural Lands bearing S.F.Nos.80/2 (sub-divided as S.F.No.80/2-A & B-1 to 6), situated at Perur Village, Coimbatore Taluk, measuring 6.52 Acres to the petitioner and the respondents 5 & 6 within a stipulated time.

For Petitioner : Mr.T.P.Manoharan

For Respondents : Mr.P.Karthikeyan, G.A.
For R1 to R4
Mr.R.Rajesh for R5 & R6
Mr.N.Manoharan for R7

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O R D E R

Reserved on : 05.10.2015

Pronounced on : 03.11.2015

The prayer in the writ petition is for issuance of a writ of mandamus to direct the respondents 2 to 4 to complete the process of reversion under Section 18-D(2) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, by restoring the actual physical possession of agricultural land bearing S.F.Nos.80/2 (sub-divided as S.F.No.80/2-A & B-1 to 6), situated at Perur Village, Coimbatore Taluk, measuring 6.52 Acres to the petitioner and the respondents 5 and 6 within a stipulated time.

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

According to the petitioner, one Rangae Gounder and his wife K.R.Masthammal were owning agricultural lands including the agricultural land bearing S.F.No.80/2 (Old S.F.No.241 & 229) situated at Perur village, Coimbatore Taluk and measuring 6.52 Acres. They had no issues. Hence, on the death of Rangae Gounder, his wife and only legal heir, namely, K.R.Masthammal had become the absolute owner and possessor of all the agricultural lands including the agricultural lands bearing S.F.No.80/2 (Old S.F.No.241 & 229), measuring 6.52 Acres. K.R.Masthammal settled some of her properties in favour of her foster daughters, namely, Thai @ Nanjammal and her sister Rukmani @ Prema, under two separate Settlement Deeds, dated 06.04.1960. Subsequently, under a Will dated 24.04.1989, she reserved life interest for herself and bequeathed the agricultural land bearing S.F.No.80/2 (Old S.F.Nos.241 & 229), situated at Perur Village and measuring 6.52 Acres in favour of the petitioner and the respondents 5 and 6. She died on 23.02.1991 and the Will executed by her has come into force and the petitioner and respondents 5 and 6 acquired the said agricultural land and were in possession and enjoyment of the said land as its absolute owners.

3. In such circumstances, after the commencement of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (hereinafter called as "the Land Reforms Act"), the Authorized Officer initiated proceedings under the said Act for calculating

and determining the Ceiling Area of the agricultural lands held by K.R.Masthammal and also published a final statement under Section 12 of the Land Reforms Act, specifying the entire lands held by her, the lands to be retained by her within her ceiling area and the lands to be declared as surplus etc. In the said proceedings, the Authorized Officer held that the Settlement Deeds, dated 06.04.1960, executed by K.R.Masthammal were void and declared the lands settled thereunder in favour of the petitioner's mother Thai @ Nanjammal and her sister Rukmani @ Prema within her holdings as surplus lands. Aggrieved by the said action, K.R.Masthammal, Thai @ Nanjammal and her sister Rukmani @ Prema preferred an appeal before the Land Tribunal. The Land Tribunal had also held that the Settlement Deeds were void. But, it had directed the Authorized Officer to include the lands settled thereunder within the lands to be retained by K.R.Masthammal in her ceiling area.

4. Aggrieved by the same, they filed C.R.P.Nos.258, 259 and 260 of 1969, before this Court and this Court, by Order dated 22.01.1971, allowed the revision petitions and set aside the orders passed by the Land Tribunal. Thereafter, the Authorised Officer had excluded the said lands and published a final statement on 23.05.1973, specifying the remaining lands of K.R.Masthammal within her holdings, the lands to be retained by her within the ceiling area and the lands to be declared as surplus etc. After about 13 years, the Deputy Secretary, Revenue Department, had published a Notification in Form-12 U/s.18(1) of the Land Reforms Act bearing G.O.Ms.No.103, Revenue, dated 03.02.1986, notifying the surplus lands and stating that they are required for public purpose. In the said notification, in violation of the orders of this Court and also the final statement, the lands directed to be deleted from the holdings of K.R.Masthammal had also been taken within her holdings and also included as surplus lands and stated that those lands are required for public purpose.

5. In the meantime, K.R.Masthammal died and the petitioner's mother Thai @ Nanjammal and her sister Rukmani @ Prema had preferred an appeal before the Land Commissioner, Chennai and by order, dated 15.10.1996, the Land Commissioner confirmed the said notification. Hence, they filed W.P.No.11600 of 1998 before this Court to quash the notification, dated 03.02.1986 and the order, dated 15.10.1996. Thereafter, the Tamil Nadu Reforms Special Appellate Tribunal was constituted and the said writ petition was transferred to the said Tribunal and renumbered as T.R.P.No.437 of 1991. The Tribunal, by order, dated 31.07.1995, allowed the said petition holding that the notification, dated 03.02.1986, by including the lands covered in the order made in C.R.P.Nos.258, 259 and 260 of 1969 as invalid and directed to publish a revised notification, under Section 18(1) of the Land Reforms Act in accordance with law.

6. The third respondent, in the meantime, had taken possession of the surplus lands and by proceedings, dated 17.02.1987 and 25.05.1988, assigned one of the surplus lands viz., the land bearing S.F.No.80/2 to about six persons. Thereafter, in compliance with the Order, dated 31.07.1995, made in T.R.P.No.437 of 1991, passed by the Land Reforms Special Appellate Tribunal, the third respondent has considered all the matters afresh, revised the final statement and deleted the lands bearing S.F.No.80/2, measuring 6.53 Acres and other lands from the Land Reforms Proceedings, initiated against K.R.Masthammal.

7. In view of Rule 9(1)(iii) of the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965 (hereinafter, called as "the Land Reforms Rules"), the land bearing S.F.No.80/2, measuring 6.53 Acres would vest absolutely with the six assignees only after the value of the said lands is paid in full or after the expiry of a period of 20 years from the date of assignment whichever is later viz., only after a minimum period of 20 years i.e., only after 17.02.2007. In view of Sections 18-D(1) & (2) of the Land Reforms Act, if the notification is modified or cancelled, the surplus land specified therein i.e., the lands bearing S.F.No.80/2, measuring 6.53 Acres shall be deemed never to have vested in the Government, the assignment of the said lands made by the Government to the six persons prior to such date shall be deemed to have been cancelled and those lands shall stand reverted to the persons lawfully entitled to such land viz., to the petitioner and the respondents 5 and 6. Consequently, they have regained title over the said lands.

8. Therefore, by Order dated 20.03.2002, within a period of 15 years from the date of assignment, the third respondent has cancelled the assignment of the land bearing S.F.No.80/2, made in favour of six persons and also other lands made in favour of others and communicated the same to all of them. None of the said assignees have challenged the said order in any manner and on any ground and hence it has become final and binding on them and the persons claiming through them. In fact, after such cancellation, all those six persons have vacated the portions assigned to them and went away. Hence, the said allottees and the persons claiming through them cannot object for reversion and restoration of physical possession of the lands bearing S.F.No.80/2, measuring 6.53 Acres to the rightful owners viz., to the petitioner and the respondents 5 and 6 and in fact they are estopped from doing so.

9. Subsequently, the third respondent has sent a memorandum, dated 15.11.2005, to the Special Sub Inspector (LR) informing that by order, dated 20.03.2002, the assignment of lands made under the proceedings, dated 17.02.1997 and

25.05.1998 have been cancelled, enclosed a copy of the said order and directed him to change the entries in the Village Records as mentioned in the said Order and sent a report. In obedience to the said directions, the Special Sub Inspector (LR) had made necessary changes in the Village records. The Patta for the land bearing S.F.No.80/2 (sub-divided as S.F.No.80/2A & B-1 to 6) was transferred in the name of the petitioner and the respondents 5 and 6 viz., the rightful owners and the V.A.O., has also collected kist from the petitioner for the said lands.

10. In view of the facts, reasons and provisions contained in the Land Reforms Act and Rules, more particularly, Rule 9(1) (iii) of the Land Reforms Rules and Section 18D(1) and (2) of the Land Reforms Act, the lands bearing S.F.No.80/2 (sub-divided as S.F.No.80/2A and B1 to 6) have reverted to the rightful owners viz., to the petitioner and the respondents 5 and 6 and they have regained their absolute title over the same. However, such process of reversion would be complete only after the respondents 2 to 4 officially restore actual physical possession of the said lands to them. Therefore, they are bound to complete such reversion process under Section 18D(2) of the Land Reforms Act by restoring actual physical possession of the said lands to them officially and enter the same in the revenue records. However, in spite of the repeated oral demands and written representation, dated 19.04.2011 and 11.07.2011, made by the petitioner, they have not taken any action to restore actual physical possession of the lands to them till this date. Such an inaction amounts to failure to exercise the statutory power and duty given to them under the Land Reforms Act & Rules and cause substantial injury, loss, prejudice and hardship to them. Therefore, the petitioner has filed this writ petition.

11. The respondents 1 to 4 have filed their counter affidavit stating that the office of the third respondent has been disbanded and the post of the Assistant Commissioner (Land Reforms), Erode, has also been disbanded as per the orders of Government in G.O.Ms.No.34, Revenue, dated 14.01.2015. The powers of the 'Authorised Officer' under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, as amended and the 'Assigning Authority' under the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 have been conferred to the Sub-Collector / Revenue Divisional Officers in the Districts as per the notification published on 04.03.2015 and 05.03.2015.

12. The respondents 1 to 4 have further submitted that Section 22 declares the transfer or partition effected on or after the date of commencement of the Act i.e.15.02.1970, but before the notified date i.e.02.10.1970 as void, if the authorised officer finds that the transfer or partition defeats the provisions of the Act. As per the Hon'ble Supreme Court of India ruling in Authorised Officer v. S.Naganatha Ayyar,

reported in (1979) 3 SCC 466, any transfer or partition effected on or after the date of the commencement of the Act, but before the notified date and such transfer or partition whether bona fide or not are to be declared as void. Based on the above Supreme Court ruling, the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 was amended by Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1994 (Tamil Nadu Act No.11 of 1996). Section 4 of the amended Act envisages that the principal Act shall, on and from the 6th day of April, 1960, have effect, as if, section 22 had been renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section had been added, namely:- (2) For the purpose of sub-section (1), if any transfer or partition has the effect of reducing the extent of surplus land in excess of the ceiling area, such transfer or partition, whether bona fide or not, shall be construed as defeating the provisions of this Act."

13. Section 5 of the Amended Act envisages that notwithstanding anything contained in any law for the time being in force or in any judgment, decree or order of any court or other authority but subject to the provisions of section 21-A of the principal Act, any proceeding taken or order passed under the principal Act, which has been disposed of before the date of the publication of this Act in the Tamil Nadu Government Gazette, contrary to the provisions of Section 22 of the Principal Act, as amended by Section 4 of this Act, shall be reopened and disposed of in accordance with the provisions of Section 22 of the principal Act as so amended. Provided that no such proceedings or order shall be reopened under this section, after the expiry of a period of five years from the date of publication of this Act in the Tamil Nadu Government Gazette, provided further that no such proceeding or order shall be reopened unless the person affected has had a reasonable opportunity of being heard.

14. In the present case, as the transfer was effected on 06.04.1960 and 09.04.1960, the said transfers were declared as void and on further appeal this court observed that the settlements executed should be true, genuine and bona fide. But, in view of the ruling of the Supreme Court of India and consequent on the enactment of Amended Act 11/96, the said transfers have to be declared as void, whether they are bona fide or not. Therefore, the case of the landowner was re-opened on 14.08.1996, within the statutory time limit as prescribed under Section 6 of the Amended Act 11/96. The notification under Section 18(1) of the Act, dated 12.02.1986, was published based on the Hon'ble Supreme Court ruling in (1980) 1 MLJ 34 (SC). In the case of other transfers effected by the landowner in between the crucial dates, i.e. 15.02.1970 and 02.10.1970, the matter went upto Supreme Court of India against the declaration

of such transaction as void and the Supreme Court in C.A.Nos.3602 to 3613 of 1986, dated 22.11.1986, allowed the appeals filed by the State in line with the findings in the Authorised Officer vs. S.Naganatha Ayyar and others [(1979) 3 SCC 466]. The findings of the Hon'ble Supreme Court in (1979) 3 SCC 466 applies to the present case also. In view of the orders of the Tamil Nadu Land Reforms Special Appellate Tribunal in T.R.P.No.437/91 (W.P.11600 of 1988), the order of assignment was cancelled and on cancellation, the assignment will no longer exist and no claim can be made by the assignees. No instructions were issued to the Special Revenue Inspector (Land Reforms) to effect changes in favour of the petitioner, but only to effect changes by deleting the name of the assignees and registering it as 'surplus'. Only after the proceedings under the Amended Act 11/96 is concluded, the notification under Section 18(1) can be modified as per Section 18-C. Section 18-D can be applied only if the notification under Section 18(1) is modified under Section 18-B or 18-C and therefore the question of applicability of Section 18-D does not arise in this case.

15. The respondents 1 to 4 further submitted that land ceiling proceedings were initiated against the holdings of K.R.Masthammal, as she held lands to an extent of 210.470 ordinary acres equivalent to 71.385 standard acres i.e., more than the ceiling limit of 30.000 standard acres as on 06.04.1960. She settled properties to an extent of 35.51 ½ Acres on her foster daughters Nanjammal alias Thayammal on 09.04.1960 to the extent of 85.86 ½ Acres. These transactions were declared as void under Section 22 of the Act on 22.10.1967 along with other transactions effected in between the date of commencement of the Act, i.e.15.02.1970 and the notified date i.e.02.10.1970 to an extent of 56.15 Acres. Against which, the landowner and her foster daughters Nanjammal and Rukmani filed appeal before the Land Tribunal in LTA Nos.206 to 208 of 1967 and the Land Tribunal in its Judgment in L.T.A.Nos.173, 206 to 214 of 1967 and 23 of 1968, dated 23.12.1968, dismissed the appeals with an observation that the landowner has retained for herself 28.707 standard acres and as the transfers in favour of Nanjammal and Prema are characterized as bona fide transfers and in due fulfillment of an avowed desire to make a bequest of land to them, the said transferees as well as Venkatachala Udayar, who contends that he had paid valuable consideration, may apply to the Authorised Officer when he is declaring the surplus of the holding to exclude the lands transferred to them and take instead the lands retained by Masthammal for herself.

16. Against the above order, the land owners Nanjammal and Rukmani filed civil revision petitions in C.R.P.Nos.258 to 260 of 1969 before this Court and this Court by order, dated 22.01.1971, allowed the revision petitions pointing out the observations of the Tribunal in its order that the settlements

executed should be true, genuine and bona fide. The other transferees, who got lands from the landowner between the date of commencement of the Act and the notified date have also challenged the order of the Authorised Officer, dated 08.05.1972, declaring the transaction as void before the Land Tribunal and the Land Tribunal in its order in L.T.A.Nos.294 to 299 of 1972, dated 29.01.1973, dismissed the appeals and confirmed the orders of the Authorised Officer and on further appeal, this Court, by order, dated 20.12.1974, in C.R.P.Nos.1366 to 1368 of 1973 and 853 of 1974, allowed the revision petitions. Against the said Judgment, the State filed Special Leave Petitions and the Hon'ble Supreme Court in C.A.Nos.3602 to 3613 of 1986 allowed the appeals on 22.11.1986 as the findings in the Authorised Officer and other vs. S.Naganatha Ayyar and others (1979) 3 SCC 466 are directly covered by the decision.

17. Then, the final statement under Section 12 of the Act was published in the Tamil Nadu Government Gazette, dated 04.07.1973, and the final statement was subsequently amended under Section 14 of the Act on 11.11.1981, based on the order under Section 15 issued in pursuance to the orders of the Supreme Court of India on matters connected to Section 22 of the Act. Following the final statement and amendment to final statement, notification under Section 18(1) of the Act was published in the Tamil Nadu Government Gazette, dated 12.02.1986, declaring an extent of 97.91 ordinary Acres equivalent to 31.425 standard Acres as surplus, after placing the lands covered in the settlement deeds to the extent possible. Against the notification under Section 18(1) of the Act, the landowner filed revision petition before the Land Commissioner with the main contention that when the High Court held the transfers as valid in its order, dated 22.01.1971, certain lands involved in the settlements have been included in the holdings of the landowner and declared as surplus. The Land Commissioner in his order in R.P.No.41 of 1986, dated 15.10.1986, dismissed the revision petition with an observation that the lands under two settlements have been included within the retainable portion to the extent possible and that if the petitioners have any different suggestions they may come up with another revision petition.

18. Nanjammal, one of the foster sister of the landowner filed a writ petition in W.P.No.11600 of 1988, before this Court, against the notification under Section 18(1) of the Act and the orders of the Land Commissioner, dated 15.10.1986. On constitution of Tamil Nadu Land Reforms Special Appellate Tribunal, the above case has been transferred to Tamil Nadu Land Reforms Special Appellate Tribunal and numbered as T.R.P.No.437 of 1991 (W.P.No.11600 of 1988). The Tamil Nadu Land Reforms Special Appellate Tribunal in its order in TRP 437 of 1991,

dated 31.07.1995, held that since the notification published under Section 18(1) by including the lands covered by the Judgment in C.R.P.Nos.258, 259 and 260 of 1969, dated 22.01.1971, is invalid, there shall be a revised publication of a notification under Section 18(1) in accordance with law, as the judgment of C.R.P.Nos.258 to 260 of 1969, dated 22.01.1971, was not appealed and the same was allowed to stand and become final.

19. When the matter stands as such, Section 22 was amended as per the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1994 (Tamil Nadu Act No.11 of 1996) and by which it was held that if any transfer or partition has the effect of reducing the extent of surplus land in excess of the ceiling area, such transfer or partition whether bona fide or not, shall be construed as defeating the provisions of the Act and to be declared as void. Under Section 6 of the Amended Act, provision has also been made to reopen all the past cases, which were disposed of before the date of the publication of the Amended Act 11/96, provided no such proceedings shall be reopened after the expiry of a period of five years from the date of publication of the amended Act i.e.10.05.1996. Accordingly, the case of the landowner was reopened and notices was issued to Nanjammal and Prema on 14.08.1996 and it was acknowledged by both of them on 26.08.1996 and the enquiries are being conducted. The case of the landowner was lawfully reopened before the time limit provided under the Amended Act 11/96 and the particulars of sales made between the date of commencement of the Act and the notified date and the revenue records are being gathered and the proceedings are under enquiry.

20. Following the notification under Section 18(1) of the Act, dated 12.02.1986, assignment proceedings were initiated under the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 and the subject land of S.F.No.80/2, to an extent of 6.02 Acres was assigned to eligible persons on 26.04.1986, and the assignment made to eligible persons was subsequently cancelled following the orders of Tamil Nadu Land Reforms Special Appellate Tribunal in T.R.P.No.437 of 1991, dated 31.07.1995. Against the order, dated 20.03.2002, R.Vanajamani and five others filed appeal before the District Revenue Officer, Coimbatore-Land Tribunal and the appeal is pending disposal before the District Revenue Officer, Coimbatore. Following the notification, under Section 18(1) of the Act, dated 12.02.1986, assignment proceedings were initiated under the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 and the subject land of S.F.No.80/2 to an extent of 6.02 Acres was assigned to eligible persons and the assignment made to eligible persons was subsequently cancelled on 20.03.2002, following the orders of Tamil Nadu Land Reforms Special Appellate Tribunal in T.R.P.No.437 of 1991, dated 31.07.1995.

Once the order of assignment was cancelled, the assignee has no right over the land and the land will not vest in the assignee absolutely as per Rule 9(1)(iii)(a) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965. Further, Section 18-D(1) and (2) cannot apply to this case, as the notification under Section 18(1) of the Act, dated 12.02.1986, was not modified or cancelled. After the orders of the Tamil Nadu Land Reforms Special Appellate Tribunal, dated 31.07.1995, the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) 2nd amendment Act, 1994 was enacted and got published in the Tamil Nadu Government Gazette, dated 10.05.1996. As per amended Act 11/96, the transfer or partition effected on or after the date of commencement of the Act, ie. 15.02.1970, but before the notified date ie. 02.10.1970 are to be declared as void, whether such transfer or partition bona fide or not. The case of the landowner was reopened lawfully as per the amended Act 11 of 1996 and the proceedings are pending finalization. Only after finalization of proceedings under Section 22 and after the notification under Section 18(1) of the Act 12.02.1986, is modified, Section 18-D will apply. It is incorrect to state that the assignees have not challenged the order of cancellation of assignment, dated 20.03.2002, because R.Vanajamani and others have preferred appeal before the Land Tribunal and the appeal is pending disposal. Once the Tamil Nadu Land Reforms Special Appellate Tribunal has directed to revise the notification under Section 18(1), dated 12.02.1986, all subsequent proceedings including the order of assignment have become infructuous and are deemed to have been cancelled and accordingly, the orders of assignment made in the subject land was cancelled on 20.03.2002. Therefore, the assignees cannot claim anything and they derive no rights by virtue of the assignment order.

21. The third respondent, in his endorsement to the Special Revenue Inspector (Land Reforms), Coimbatore, dated 15.11.2005, has only given instruction to effect necessary changes in the village accounts with reference to the order of cancellation, dated 20.03.2002. That is, instructions were issued to delete the name of the assignees and to register the lands as 'surplus' in the revenue records. The name of the petitioner and the respondents 5 and 6 cannot be registered in the revenue records, unless the notification under Section 18(1), dated 12.02.1986, is modified under Section 18-C of the Act. In this case, the case of the land owner was reopened under the amended Act 11/96 and only after finalization of the proceedings under the amended Act 11/96, the notification under Section 18(1) can be modified. The changes made in the name of the petitioner and the respondents 5 and 6 is against the provisions of the Act and the petitioner and the respondents 5 and 6 cannot have claim over the land.

22. Section 18-D(2) will not apply to this case as the proceedings under Section 22 initiated as per the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1994 (Tamil Nadu Act 11 of 1996) is under process. Therefore, the restoration of physical possession of lands to the petitioner does not arise. The land reforms was being implemented in the State with only six offices of the Assistant Commissioner (Land Reforms) and each Assistant Commissioner was having jurisdiction of multiple Districts ranging from 3 to 8 Districts. The present case was dealt with by the Assistant Commissioner (Land Reforms), Erode. He was having a jurisdiction of eight Districts and had to travel multiple Districts even, at times more than 300 kms. to reach the destination for conducting enquiry and inspection of the land resulting in consumption of much time in completing the proceedings. Therefore, the Government in order to strengthen the delivery system, to enable the public to have easy access for redressal of their grievances related to land reforms and to involve the District Administration in the matters connected to land reforms have issued orders for restructuring of land reforms in G.O.Ms.No.34, Revenue, dated 14.01.2015. By restructuring of land reforms by the Government, the six offices of the Assistant Commissioner (Land Reforms) was abolished and only land reforms unit was formed at each Collectorate and the delivery of land reforms has been strengthened from a setup of six Deputy Collectors for 31 Districts to 31 District Collectors, 31 District Revenue Officers and 79 Revenue Divisional Officers and 31 Additional Personal Assistant (Land) to Collector. Further, the powers of Authorized Officer and Assigning Authority under the Act and Rules have been delegated to all the Sub Collectors / Revenue Divisional Officers in the State and the Revenue Divisional Officers are taking speedy action in all the pending proceedings for early disposal. As the proceedings under Section 22 read with amended Act 11/96 is pending finalization, only on completion of such proceedings and on revision of the notification under Section 18(1), further action could be taken on the request of the petitioner.

23. Following the amended Act 11/96, the case of the land owner was reopened and notices were issued to Nanjammal and Prema on 14.08.1996 and they were acknowledged by them on 26.08.1996 and the enquiries are being conducted. The case of the land owner was lawfully reopened before the time limit provided under the Amended Act 11/96 and the particulars of sales made between the date of commencement of the Act and the notified date and the revenue records are being gathered and the proceedings are under enquiry. Therefore, there is no denial of equality to any person before the law and no person has been deprived of propriety as the proceedings are governed by Act and Rules. Therefore, there is no violation of Articles 14 and 300-A of the Constitution of India. Because of the pendency of

proceedings under Section 22 read with amended Act 11/96, the land under dispute in this writ petition has not been reverted back to the person lawfully entitled to such land. Therefore, the question of restoring physical possession to the petitioner does not arise. Accordingly, the respondents 1 to 4 have prayed for dismissal of this writ petition.

24. The seventh respondent filed his counter affidavit stating that at the outset this writ petition is liable to be dismissed on the ground of material suppression of facts besides laches on the part of the petitioner in filing this writ petition after 16 years. He had purchased the property under a Sale Deed, dated 11.04.2001, and continued to be in actual possession and enjoyment for more than a decade. However, the above writ petition was filed without impleading him as a party respondent. The agricultural lands measuring 6.52 Acres in Survey No.80/2 of Perur Village owned and possessed by Mrs.K.R.Masthammal had been declared as surplus lands under Section 18(1) of the Act, 1961. The first respondent issued G.O.Ms.No.103 (Revenue), dated 03.02.1986 which was published in the Tamil Nadu Government Gazette No.VIA-Part II Sect.1 (Supplement), dated 12.02.1986. Subsequently, the third respondent granted assignment in the name of Thangammal, Palaniammal, Poovathal, M.Ramasamy, M.Seenivasan and M.Rajagopal, vide Na.Ka.No.445/MR4/G, dated 26.08.1988. They were put in actual physical possession on 01.10.1988 and they continued to be in possession till the sale deed, dated 11.04.2001, executed by the above said Rajagopal in his name. Similarly, the other assignees after receiving the entire sale consideration put him in actual, physical possession and enjoyment. Accordingly, mutation of records have been effected in his name, which would prima facie establish his right, title and possession over the subject matter property till this date. The petitioner is fully aware of his physical possession and enjoyment in pursuance to the sale made by the assignees, yet, the writ petition was filed without impleading him as a party respondent.

25. The lands, measuring about 6.52 Acres in S.No.80/2, was allegedly settled by late K.R.Masthammal in the name of the foster daughters, namely, Thai @ Nanjammal and her sister Rukmani @ Prema, by virtue of the undisclosed Settlement Deeds, dated 06.04.1960. Again, the said K.R.Masthammal bequeathed the very same properties to the petitioner and the respondents 5 and 6 under a Will, dated 24.04.1989. According to the petitioner, after the death of the said K.R.Masthammal on 23.02.1991, he along with the respondents 5 and 6 became the absolute owners and have claimed title over the subject matter properties and filed this writ petition.

26. Strangely, the petitioner has not produced the alleged settlement deeds, dated 06.04.1960, which stood in the name of Thai @ Nanjammal and Rukmani @ Prema. Further, they have filed W.P.No.11600 of 1988 before this Court against the Gazette Notification, dated 12.02.1986, relating to G.O.Ms.No.103, dated 03.02.1986 and it was transferred to the Tamil Nadu Land Reforms Special Appellate Tribunal, Chennai, renumbered as TRP.No.437 of 1991. However, neither the assignees and the respondents 5 and 6 were impleaded as parties in T.R.P.No.437 of 1991. According to the petitioner, the original owner K.R.Masthammal died on 23.02.1991, after bequeathing the properties under the disputed Will, dated 24.04.1989, if so, the petitioner and the respondents 5 and 6 should have come on record in T.R.P.No.437 of 1991.

27. The petitioner has come forward with a fraudulent claim under the disputed Will, dated 24.04.1989, alleged to be executed by K.R.Masthammal. However, a close reading of the alleged Will, dated 24.04.1989 would show that an extent of 6.52 Acres comprised in Inam Survey Nos.229 and 241 were bequeathed in the name of the petitioner and the respondents 5 and 6. In fact, the said Will, dated 24.04.1989, is a false document, which was created at the instance of the writ petitioner and the respondents 5 and 6 herein by taking advantage of their possession of a registered Will, dated 10.02.1988, executed by K.R.Masthammal in their favour in respect of various other properties. The fact remains that the subject matter lands bearing S.No.80/2 were not included in the alleged Wills, dated 10.02.1988 and 24.04.1989. The petitioner has conveniently chosen to link the subject matter lands in S.No.80/2 with that of the alleged old Inam Survey Nos.229 and 241, which stood in the name of different persons. The information furnished by the District Land Survey Office, Coimbatore, in Na.Ka.E1/RTI Act/45/12, dated 27.02.2012, in response to his petition, dated 16.02.2012, would show that no such inam S.No.241 was found in Perur Village. Further, the petitioner has not produced any revenue records to correlate the Inam S.Nos.229 and 241 with the subject matter lands in S.F.No.80/2, therefore, his claim over the property is totally misconceived. If the claim of the petitioner is true, he would have taken some steps on or after the death of K.R.Masthammal, whereas he kept quiet for the past 20 years and has conveniently made the representations, dated 19.04.2011 and 11.07.2011, for the purpose of filing the writ petition before this Court, on 04.11.2011. The claim of the petitioner on the basis of the alleged Will, dated 24.04.1989, is totally mischievous and he should be non-suited on the ground that he has not approached this Court with clean hands.

28. The petitioner has not given any explanation or reason for not taking action after the order, dated 31.07.1995, made in T.R.P.No.437 of 1991. He has no knowledge about the forged

Will, dated 24.04.1989, order in T.R.No.437 of 1991, dated 31.07.1995, and the proceedings of the second respondent, dated 20.03.2002. The orders passed by the respondents 2 to 4, without hearing the persons affected, are non est in the eye of law and it will not bind the above named six assignees and his right under the Sale Deed, dated 11.04.2001. The Will, dated 24.04.1989, is a forged one since Inam S.Nos.229 and 241 mentioned therein have not got any correlation with the subject matter land in S.No.80/2. The petitioner is guilty of suppression of material facts and this writ petition is liable to be dismissed on the ground of non-joinder of necessary and proper parties, who would be really affected in the event of allowing the writ petition.

29. The petitioner has given a false complaint before the Land Grabbing Cell and it was forwarded to the Inspector of Police, Perur Police Station, for enquiry in the first week of January 2012, only thereafter he came to know about the writ petition filed by the petitioner. After his Sale Deed, dated 11.04.2001, he has been in actual and exclusive possession and enjoyment of the entire extent of 6.52 Acres and the mutation of records would prima facie establish his claim over the subject matter properties. However, this writ petition was filed without disclosing the above material facts. The petitioner has miserably failed to establish his right much less legal right over the subject matter property under the disputed Will, dated 24.04.1989 in the absence of any legal evidence to overcome the alleged Settlement Deed, dated 06.04.1960, executed by Late.K.R.Masthammal in favour of one Thai @ Nanjammal and Rukmani @ Prema. Admittedly, the Settlement Deeds, dated 06.04.1960, have not been produced before this Court. Even otherwise, once the Settlement Deeds have been executed, the Settlor namely K.R.Masthammal cannot bequeath the same properties under the disputed Will, dated 24.04.1989.

30. The petitioner has filed this writ petition only with a view to overcome the bar of limitation. The basis of the claim of the petitioner on the basis of the order, dated 31.07.1995, made in T.R.P.No.437 of 1991, is not enforceable at this point of time. Moreso, none of the persons aggrieved were impleaded to give a binding effect on them. Above all, the writ petitioner has to first establish his "lawful entitlement" over the land to sustain his claim under Section 18-D(1) of the Act, 1961. He cannot be allowed to claim the status of the owner of the subject matter land till his claim is proved under the disputed Will, dated 24.04.1989 in the manner known to law. Accordingly, he prayed for dismissal of this writ petition.

31. The learned counsel appearing for the petitioner has submitted that the original owners of the land, namely, Rangae Gounder and his wife K.R.Masthammal did not have issues. After

the death of Rangae Gounder, his wife K.R.Masthammal had settled some of her properties in favour of the petitioner's mother, namely, Thai @ Nanjammal and mother of the respondents 5 and 6 herein. Subsequently, the said property was bequeathed in favour of the petitioner and respondents 5 and 6 herein. As such, they had acquired the said agricultural land and were in possession and enjoyment of the same as its absolute owners. In such circumstances, the respondents 1 to 4 had initiated acquisition proceedings, under the Land Reforms Act, and held that the settlement deeds, executed by the said K.R.Masthammal were void and she was possessing surplus lands. Aggrieved by the same, the said K.R.Masthammal, Thai @ Nanjammal and her sister Rukmani @ Prema preferred an appeal before the Land Tribunal. The Land Tribunal had directed the Authorised Officer to include the lands settled thereunder within the lands to be retained by the said K.R.Masthammal in her ceiling area.

32. Further, the learned counsel has submitted that against the said order, K.R.Masthammal, Thai @ Nanjammal and her sister Rukmani @ Prema had filed revision petitions before this Court and this Court had allowed the revision petitions and set aside the orders passed by the Land Tribunal. Based on the orders passed by this Court, the Land Tribunal had excluded the said lands and published a final statement on 23.05.1973 and specified the remaining lands of K.R.Masthammal within her holdings. Subsequently, after a lapse of 13 years, the Deputy Secretary, attached to the Revenue Department had published a notification, dated 03.02.1986, notified surplus lands and stated that the surplus lands were required for public purpose. The said notification was against the orders passed by this Court in the earlier civil revision petitions. In the meantime, the said K.R.Masthammal expired and her two foster daughters challenging the notification, dated 03.02.1986, had preferred an appeal before the Land Commissioner, who confirmed the said notification, dated 03.02.1986. Against the said order, they had filed a writ petition before this Court to quash the order passed by the Land Commissioner. While the writ petition was pending, the Tamilnadu Land Reforms Special Appellate Tribunal had been constituted and the writ petition had been transferred to the said Appellate Tribunal. Subsequently, the Appellate Tribunal had allowed the said petition and directed the Deputy Secretary, attached to the Revenue Department to publish a revised notification.

33. The learned counsel appearing for the petitioner has further submitted that under these circumstances, the third respondent had taken possession of the surplus lands and assigned it to six persons. Further, in view of Sections 18-D (1) and (2) of the Land Reforms Act, if the notification is modified or cancelled, the surplus land in Survey No.80/2, measuring about 6.53 Acres shall be deemed never to have vested

with the Government, the assignment of the said land made by the Government to the six persons prior to such date shall be deemed to have been cancelled and the said land shall stand reverted to the persons lawfully entitled to such land viz., to the petitioner and the respondents 5 and 6 and consequently they have regained title over the said land. Subsequently, the third respondent had cancelled the assignment made in favour of the six persons by order, dated 20.03.2002. None of the said assignees have challenged the said order. All the said assignees have vacated their possession and handed it over to the Government. Hence, the learned counsel has prayed this Court to direct the respondents 1 to 4 to change the entries made in the revenue records in the name of the petitioner and respondents 5 and 6, who are the rightful owners and remitting mandatory taxes to the statutory authorities.

34. The learned Government Advocate appearing for the respondents 1 to 4 has submitted that the post of the third respondent has been disbanded and the post of Assistant Commissioner (Land Reforms), Erode, has also been disbanded as per the Government Order, dated 14.01.2015. The power of the Authorised Officer has been conferred to the Revenue Divisional Officer. As per Section 4 Sub-section (2) of the Land Reforms Amendment Act, if any transfer or partition has the effect of reducing the extent of surplus lands in excess of ceiling area, such a transfer or partition, whether bonafide or not shall be construed as defeating the provisions of the Act, with effect from 06.04.1960. In the instant case, the transfer was effected from 06.04.1960 and 09.04.1960 and as such the said transfer was declared as void. Further, the notification, dated 12.02.1986, was published under Section 18(1) of the Act, based on the Supreme Court rulings.

35. Further, the learned Government Advocate has submitted that the proceedings were initiated against K.R.Masthammal as she held lands to an extent of 71.385 standard Acres i.e. more than the ceiling limit of 30 standard Acres as on 06.04.1960. The erstwhile owner had settled the property on 06.04.1960 and 09.04.1960 and the same were declared as void under Section 22 of the Act. The foster daughters of Late.K.R.Masthammal had preferred appeal before the Land Tribunal and the same was dismissed. Against which, they had filed revision petitions before this Court and this Court allowed the revision petitions and set aside the order passed by the Land Tribunal. The special leave petitions filed against the orders passed by this Court in revision petitions were allowed by the Supreme Court. In such circumstances, the authorised officer had acquired the surplus lands, after following all the legal formalities.

36. The learned Government Advocate has further submitted

that the acquired surplus land in S.F.No.80/2, measuring about 6.02 Acres was assigned to six persons by order, dated 26.04.1986. Subsequently, the same was cancelled. Against the said cancellation order, the assignees had preferred appeal before the District Revenue Officer, which is pending enquiry and as such the erstwhile assignees are also necessary parties in the above said writ petition. Hence, the learned Government Advocate has prayed this Court to dismiss the writ petition.

37. The learned counsel appearing for the respondents 5 and 6 has submitted that the original owner K.R.Masthammal had executed two Settlement Deeds in favour of the mother of the petitioner and mother of the respondents 5 and 6, who are the foster daughters of the said settlor. Therefore, the surplus land acquired by the third respondent is not sustainable under law. The third respondent, without giving prior notice and conducting due enquiry, suo motu declared the Settlement Deeds as null and void. This kind of order violates Article 14 and 21 of the Constitution of India. Some of the documents have been standing in the name of the respondents 5 and 6. The Land Tribunal had set aside the third respondent's acquisition proceedings. Therefore, the learned counsel has prayed for dismissal of this writ petition.

38. The learned counsel appearing for the seventh respondent has submitted that the seventh respondent had purchased the said land under a registered Sale Deed, dated 11.04.2001 and he is in absolute possession and enjoyment of the said land. The third respondent had acquired the surplus land from the said K.R.Masthammal under Section 181 of the Tamilnadu land Reforms Act. After acquiring the said land, the same was published in the Government Gazette, dated 03.02.1986. Thereafter, the required land measuring about 6.52 Acres had been assigned to six persons vide order, dated 26.09.1988. All the assignees have been placed in the physical possession of the said land from 01.10.1988. One of the assignees had executed a Sale Deed in favour of the seventh respondent and the other assignees had received the entire sale consideration from the seventh respondent and permitted him to occupy the said land. Subsequently, relevant records and revenue records have been mutated in the name of the seventh respondent. The petitioner has contended that the original owner K.R.Masthammal had executed a registered Will, dated 24.04.1989 and bequeathed the subject land in favour of the respondents 5 and 6. During the relevant period, the assignees have been placed in the subject land, which has been allotted to them vide order, dated 26.08.1984 and therefore the alleged Will cannot be operated upon the said land. The said Will is a self-serving document and as such it is not a bona fide one. Further, the alleged Settlement Deeds, dated 06.04.1960 and 09.04.1960, have not been produced before the Government authorities. Hence, the learned

counsel has prayed this Court to dismiss the writ petition.

39. 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, it is seen that Patta has been issued by the Tahsildar, attached to Coimbatore South Taluk Office in favour of the seventh respondent herein and the Village Administrative Officer has also issued Adangal extracts in his name. Furthermore, the revenue records clearly reveal that the seventh respondent is in physical possession. In such circumstances, the prayer sought by the writ petitioner does not have sufficient force to allow it and hence the same is liable to be dismissed.

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

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

krk

To:

1.The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St.George, Chennai-600 009.

2.The District Collector,
Coimbatore District,
Coimbatore.

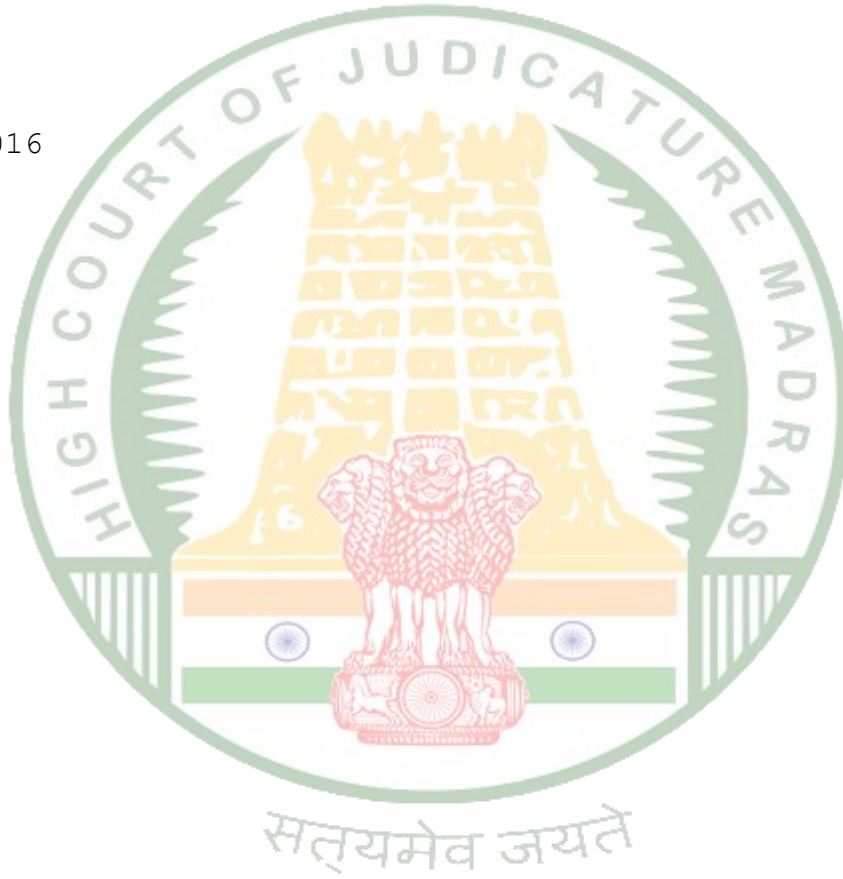
3.The Assistant Commissioner of
Land Reforms-cum-the Authorized
Officer,
Jai Bhavan, Gandhiji Road,
Erode District, Erode.

4.The Thasildar (South),
Hosur Road, Coimbatore.

+1 cc to M/S.N.Manokaran Advocate sr.60478
+1 cc to M/S.T.P.Manokaran Advocate sr.60501
+1 cc to Government Pleader sr.60722

W.P.No.25731 of 2011
and
M.P.No.1 of 2011

rsk(co)
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