

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P. No.33841 of 2015

1.R.Pankajam
2.R.Nithiyananthan
3.R.Tamil Selvi

... Petitioners

Vs.

1.The Land Commissioner (Land Reforms)
Chepauk, Chennai - 600 005.

2.The Revenue Divisional Officer
Periyar Nagar, Arur,
Dharmapuri District.

... Respondents

PRAYER : Writ petition is filed under Article 226 of the Constitution of India for issue of writ of mandamus directing the 2nd respondent to pass orders pursuant to the order of the 1st respondent in R.P.No.3 of 2013 (Land Reforms) dt.14.1.2015 based on the petitioners' representation dt.25.02.2015, 13.04.2015 within stipulated time.

For Petitioners : Mr.R.Krishnan for Mr.A.Sivaji

For Respondents : Mrs.M.E.Rani Selvam AGP

O R D E R

With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2. The petitioner's grand father Mr.B.S.Palanisamy purchased the property comprised in Survey No.216/1, 217/1, 223/1 and 223/2 by virtue of sale deed No.1385 of 1973 dated 01.10.1973. On 13.06.1979, the Asst. Commissioner (Land Reforms), Erode issued notification under Section 18 (1) of the Land Reforms Act by issuing G.O.Ms.No.1283, Revenue Department. The said order was challenged by the first petitioner's husband by filing Revision Petition No.3 of 2013 before the first respondent. The first petitioner's husband died on 30.21.2013 leaving behind the petitioners as legal heirs. Subsequently,

the revision petition was allowed by the first respondent on 14.01.2015 giving relief to the petitioners and consequently, directed the second respondent herein to take up the case applying the provisions of Section 23 (2) of the Act.

3. Even though the above said order was passed by the first respondent on 14.01.2015, the second respondent did not act upon the same and hence the petitioners gave representations to the second respondent on 25.02.2015 and 13.04.2015. By communication dated 03.06.2015, the District Collector, Erode replied that the petitioners representation has been forwarded to the Revenue Divisional Officer, Arur, Dharmapuri District, the second respondent herein. Thereafter also, the District Collector, by virtue of order dated 21.07.2015 directed the second respondent to execute the order passed in the Revision Petition No.3 of 2013. Since no action has been taken, the petitioners have come before this court.

4. Heard Mr.K.Krishnan representing Mr.Sivajai, learned counsel for the petitioners and Mrs.Rani Selvam, learned Additional Government Pleader appearing for the respondents.

5. It is seen that the revision petition filed by the first petitioner's husband was allowed by the first respondent by virtue of order dated 14.01.2015. A perusal of the order would show that the relief has been granted to the petitioners. The operative portion of the order passed by the first respondent reads as follows -

In view of all the above reasons, as the sale effected by the landowner to the petitioner's father is attracted under the provisions of Section 23(1)(a) of the Act and as protection is to be given under Section 23(2) of the Act by inclusion of all such sales in the retainable area of her land owner to the extent possible, the respondent 1 is to take up the case applying the provisions of Section 23 and also check regarding section 22 duly giving notice to all interested persons including the petitioner, respondents 3 to 7, present enjoyers of the lands, pattadar as per revenue records and all other interested persons and to pass order after affording them a reasonable opportunity. The respondent 1 is to also implead himself in any pending cases in sub-ordinate or higher courts in interest will likely to be affected.

6. As rightly pointed out by the learned counsel for the petitioners, though the order was passed by the first respondent as early as on 14.01.2015 and inspite of the direction given by the District Collector, Erode on 03.06.2015 and 21.07.2015, no action has been taken by the second respondent. Therefore, the second respondent is directed to act as per the directions of the first respondent in his order dated 14.01.2015, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed of. No costs.

rgr

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1.The Land Commissioner (Land Reforms)
Chepauk, Chennai - 600 005.

2.The Revenue Divisional Officer
Periyar Nagar, Arur,
Dharmapuri District.

+ 1 cc to Mr.A.Sivaji, Advocate SR 58130

+ 1 cc to Govt.Pleader SR 58602

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