jIN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON:30.10.2015

DATED:06.11.2015

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THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.8725 of 2011

R.Karthikeyan ... Petitioner

Vs.

1.The Assistant Commissioner,
(Land Reforms), Erode.

2.The Land Commissioner,
Chepauk, Chennai - 5.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorari Mandamus or any other writ or order in the nature of a writ, calling for the records of the 2nd respondent in 2nd respondent in D1/R.P.No.19/2008 (L.Ref), dated 13.01.2011 and quash the same.

For Petitioner: Mr.A.Sivaji

For Respondents: Mr.P.Karthikeyan
(Government Advocate)

O R D E R

The petitioner further submits that initiating proceedings against his father herein after being referred to as the "landowner", under the Tamil Nadu Act 58 of 1961 as amended the Authorized Officer, now redesignated as the Assistant Commissioner, Land Reforms, the 1st respondent arrived at the holdings of the said land owner and determined the surplus. The said land owner sold 8 Acres out of 15.93 ordinary Acres in S.No.276 of Sadayapalayam (now Erangampatti Village) to Nachimuthu and Pachiappa Gounder by a registered sale deed dated 27.09.1968. The balance land was sold in 1973. However, while arriving at the holdings, the lands sold during 1968 and 1973 were also taken into account. This is a serious mistake to be rectified. Lands sold to third parties long prior to the crucial dated (15.02.1970) is to be excluded from the holding of the land owner. For this, the Assistant Commissioner has to verify the holdings based on the revenue records and the details available at the concerned Sub-Registrar's Office. For this purpose, necessary power is given to the 1st respondent to collect the details and to cross verify the details given by the landowner. After the sales patta has been transferred in the name of the vendees.

2. The total holding in S.Nos.276 and 277 is 30 Acres. In the year 1968, the landowner sold 8 acres. In 1973 he sold 16.56 acres. After the balance will be 5.50 Acres. The land owner is not holding any extent in these S.Nos. If the authority is of the view that the said balance land is also to be taken into account, then the same may be declared as surplus and the petitioner has no objection.

3. The petitioner further submits that the landowner is not cultivating his lands in S.No.274 in about 6 Acres. This is unfit for cultivation. It is full of rocks and limestone. The State Government formed a tank in 1984 under soil conservation scheme. On account of the above position, the holdings of the landowner gets reduced and consequently the surplus will be less. Now more extent is declared as surplus. If the above claim is considered then the surplus will get reduced on account of reduction in the holdings of the land owner.

4. Further, as per the records, the landowner is not having right, title and interest over S.No.290 of Sadayapalayam and the present Erakampatti Village. As per the registered deed dated 06.06.1919, Nachimuthu Gounder and Govindammal are the owners. This has been wrongly shown in the partition deed dated 18.12.1959 of the land owner. The Karnam has stated the factual aspect of it and asked for correcting the mistake by deleting this extent from the landowner's holding on the ground that the same do not belong to the land owner. However without any basis, his statement was rejected contrary to the registered records.

5. The landowner claimed exclusion and exemption before the authority. However due to the negligence on the part of the authority in not verifying the revenue record and the registered deeds, the claim for exclusion and exemption was not considered properly. There are no grounds to deny the relief in favour of the landowner. If the authority, after verification of the Village and Taluk accounts rejected the same in manner known to law then the issue will be different. That is not the case here. For instance the sold extent, which was done long prior to the crucial date, deserves to be excluded. If a verification had been made either with the Sub-Registrar's Office or the accounts of Village/Taluk accounts, the claim would have been considered in favour of the landowner.

6. Pointing out the above lapses and illegalities the petitioner filed the said revision before the 2nd respondent on 09.07.2008. Since, there was some delay in filing, the petitioner asked to explain the delay in filing. The petitioner filed a petition supported by an affidavit explaining the delay. The delay was condoned. The revision was taken on file and assigned with R.P.No.19 of 2008. The Revision Petition was taken up for final hearing. Written submissions were also filed before the 2nd respondent. However, the 2nd respondent by his order dated 13.01.2011 dismissed the same. Hence, the petitioner has filed the above writ petition.

7. The petitioner in his reply to the counter statement submits that the said Officer who had sworn to the counter under reply is not competent and proper to file the counter on behalf of the respondents. The 2nd respondent being a Quasi Judicial Authority, against whose order the Writ Petition was filed, cannot by law file a counter supporting his order, except in case of allegations against the 2nd respondent. Hence, the counter sworn by the said Officer attached to the 2nd respondent's Office is not proper, not valid in law and it to be rejected. Apart from this, the office of the 1st respondent was abolished and the same work as entrusted to a new authority namely Sub Collector/Revenue Divisional Officer, as per G.O.Ms.No.34, Revenue Dated 14.01.2015. The validity of this Government Order was upheld by this Court, (2015 (3) CTC 353). On account of this a memo was already filed before the Registry on 12.08.2015 in USR.No.14046 of 2015. Hence, the cause title of the 1st respondent is to be suitably amended, when office of the 1st respondent is available and being looked after by a newly substituted authority.

8. On account of the statement made in para 2(i) of the counter, sworn by the Officer attached to the Office of the 2nd respondent is liable to be rejected and R.D.O Dharapuram must be directed to file the counter since by then the R.D.O Dharapuram was substituted in the place of the 1st respondent. The 1st respondent had not chosen to file the counter from 2011 till 13.01.2015. After 14.01.2015 he cannot file the counter since the post was abolished and the R.D.O has to file his counter. For the foregoing reasons, the petitioner prays that this Court may be pleased to reject the counter affidavit filed on behalf of the respondents.

9. The 1st respondent has filed a counter statement on behalf of him and the 2nd respondent submits that the land owner has repeatedly sought to delay finalization of process. Already the land owner has been allowed a Revision Petition. The original notification under section 18(1) on 20.06.1979 was amended by order of Land Commissioner in R.P.274/79, dated

10.07.1980 and amended notification under Section 18-C was gazetted on 26.10.1983. The land owner has again filed a Revision Petition in 2008 before the second respondent after the lapse of 25 years and now he has filed this Writ Petition before the high Court after 28 years from the declaration of surplus land in the year 1983 under section 18(C) of the Act. Hence, filing this Writ Petition after a long lapse of time is with a view to bring back the closed correctly concluded proceedings and thus to drag on the case attempting to prevent the implementation of the Act and Rules for the welfare of the tenants and landless.

10. The respondent submits that in this case, first of all, the land owner has failed to file the Form-II return under section 8 of the Tamil Nadu Land Reforms (FCL) Act 1961 as amended, hereinafter called "the Act" and violated the provisions of the Act. The land owner has not produced the registered document for his claim of sold out lands in 1968 during enquiry for deduction from his holdings and hence could not be considered due to lack of evidence to support his claim. Sale that took place in 1973 is after the date of commencement of the Act i.e., 15.02.1970 which is a claim that cannot be considered as per Act and Rules for deduction from land owner's holdings. The said Survey numbers have rightly been included in the retainable portion of the land owner. The land owner is hence trying to misrepresent to this Court in order to obtain a verdict to increase the lands in his retainable portion and shift these lands to surplus portion wrongfully and deny ownership to the poor assignees, who now over 20 years later are owners of the other declared surplus assigned land as per the Act and Rules. The land owner is attempting to mislead this Court. He has made the writ petition affidavit particularly long by repeating himself on the same issue that has been correctly dealt with as per the provisions of the Act and Rules. Therefore, this writ petition may be dismissed on merits. The respondent further submits that the holdings of the landowner viz., K.R.Raju was determined under Tamil Nadu Land Reforms (FCL) Act, 1961 as amended by Act, 17/70 and after due process and making enquiry with landowner and then Village Karnam, the draft statement under Section 10(1) of the Act, was published in the Tamil Nadu Gazette dated 16.05.1973, determining the surplus extent of 51.20 ordinary acres equivalent to 12.800 standard acres after allowing an extent of 60.00 ordinary acres equivalent to 15.000 standard acres within the ceiling area. On receipt of the above draft statement, the landowner filed objection before the Authorized Officer (L.Ref.), Erode on 06.09.1973. Based on his objection, enquiry was made on 15.10.1973, 26.11.1973,26.12.1973 and 28.06.1975. The order under section 10(5) of the Act was passed by the Authorized Officer (L.Ref), Erode in No.42R/MRI/17.70, dated 17.10.1976 and the order was served on the landowner on 15.11.1976. On receipt

of the order, the landowner in his letter dated 18.02.1977, informed the Authorized Officer that he has no objection for declaring the lands as surplus, in S.F.No.278, 279 and 294 but the lands in S.F.No.276 to an extent of 16.00 acres sold out by him in the year 1968 vide Document No.2800 of 1968 may be excluded from his holdings. But no document has been produced before the Assistant Commissioner (L.Ref) Erode. Hence, the Assistant Commissioner had rejected this contention of the petitioner for lack of proper evidence. Further, the landowner also filed an appeal before the Court of the Principal Subordinate Judge, Erode, against the order passed by the Authorized Officer. The Principal Subordinate Judge, in his order LTA No.28/1977, dated 16.12.1977 dismissed the appeal as not maintainable. The landowner and Village Karnam were enquired on 13.08.1978. The Village Karnam, Sadayapalayam, only mentioned the sale made in 1973 in his statement. The sale made in year 1973 cannot be considered in reducing the total extent of lands of the land owner as per provisions of the Act and Rules as it is after crucial date of 15.02.1970. The final statement under Section 12 of the Act was published in the Tamil Nadu Government Gazette dated 20.12.1978. The notification under Section 18(1) of the Act was published in the Tamil Nadu Government Gazette dated 20.06.1979 declaring an extent of 28.21 1/2 acres as surplus. Copy of notification was served on the landowner on 29.07.1979.

11. On receipt of the Notification under Section 18(1) of the Act, the landowner filed revision petition before the Land Commissioner under Section 82 of the Act. The Land Commissioner, in his order in F2/R.P.274/79(L.Ref), dated 10.07.1980 dismissed the revision petition for the reason that Revision Petition against 18(1) Notification will not lie with the Land Commissioner and it is not maintainable and the petitioner's offer of lands in S.F.Nos.278 and 608/1 as surplus may be considered with reference to the provisions of the law subject to this direction of the Revision Petition. As per the Land Commissioner's direction dated 10.07.1980, an enquiry notice dated 11.08.1980 was issued to the Land Owner. Notice was received by him on 14.08.1980. The landowner in his petition dated Nil (received in the Office of the Authorized Officer on 19.08.1980) requested to the enquiry after 28.08.80. Subsequently, in pursuance of the order of the land Commissioner, an order under Section 15 of the Act was passed by the Authorized Officer on 30.07.1981 declaring an extent of 28.21 1/2 ordinary acres equivalent to 7.053 standard acres as in the place of the lands of 28.21 1/2 acres, both measuring 7.053 standard acres which were already notified as surplus. Hence, amendment to final statement was published in the Tamil Nadu Government Gazette on 31.03.1982. Based on this, an amendment to notification under section 18-C of the Act was published in the Tamil Nadu Government Gazette dated 26.10.1983.

The landowner refused to receive the above said amendment to notification and therefore, it was served on him by affixture in the compound wall of the landowner by the Village Administrative Officer on 11.01.1984. At this stage, the landowner filed the revision petition before the Land Commissioner, Chennai - 5, dated 09.07.2008 and it is numbered as D1/R.P.19/2008 (L.Ref). The land owner was instructed to file delay condonation petition. Accordingly, the land owner has filed delay condonation petition on 11.08.2008. The Land Commissioner, Chennai - 5 held that the request of the petitioner claiming exclusion and deletion of properties cannot be complied with after a long lapse of period that is after 25 years and accordingly dismissed the revision petition on 13.01.2011 as devoid of merits. Aggrieved by this orders of the second, Thiru.R.Karthikeyan, S/o.Thiru K.R.Raju has filed the present Writ Petition before this Court.

12. The respondent submits that the land owner has not filed Form-II return as per section 8 of the Act and violated the provisions of the Act. Hence, the landowner was enquired and the statement of the Karnam was obtained. During the enquiry the land owner viz., Raju had given a statement before the Special Revenue Inspector (Land Reforms) on 12.02.1973 that an extent of 15.97 acres in S.F.No.276 was held by him as on 15.02.1970 and the ex-Karnam of the Village had also confirmed it. Accordingly, Draft Statement u/s 10(1) of the Act, published in the Tamil Nadu Gazette dated 16.05.1973, in which an extent of 15.97 acres in S.F.No.276 was included in the holdings of the Land Owner. Against the above publication, the Land Owner viz., Raju filed an objection petition stating that in S.F.No.276, to an extent of 1.00 acre was covered by pathway and an extent of 8.00 acres was sold to the sons of Palanisamy Gounder i.e., Nachimuthu Gounder and Pachiappa Gounder. On the objection filed by the land owner, the Authorized Officer (L.Ref) made enquiry on 26.12.1973 in which the land owner had stated that he sold out an extent of 8 acres in S.F.No.276 and 277 in favour of the sons of Palanisamy Gounder during the year 1968. But he did not produce any documentary evidence to prove his claim in the form of a registered sale deed or revenue records prior to the crucial date i.e., 15.02.1970. The stated sale in the year 1973 is to be considered as only after the crucial date of 15.02.1970. To claim that any sale in 1973 is before the crucial date (15.02.1970) is an erroneous claim. Further, the power of the Authorized Officer under Section 9(2) to obtain necessary information may be exercised if he deems fit. Here, due to the complete lack of evidence from the land owner, the necessity to again verify does not arise, since it is clear that, it is a false claim.

13. The respondent further submits that it is seen from the draft statement under section 10(1) of the Act published in

Tamil Nadu Government Gazette dated 16.05.1973 that an extent of 15.97 acres in S.F.No.276 has been included in the holdings of the land owner based on land records as on crucial date of 15.02.1970. The landowner filed objection stating that in S.F.No.276, to an extent of 1.00 acres are covered by "Paathai" and 8.00 acres were sold out to the sons of Palanichamy Gounder and this has been registered in the village account S.T.R.No.465/73 and 466/73. But, it is seen from the statement of the land owner before the Special Revenue Inspector (L.Ref) on 12.02.1973 that the lands in S.F.No.276-15.96 acres was held by him as on 15.02.1970. The Ex-Karnam of the Village has also confirmed it. On the objection filed by him, the Authorized Officer made enquiry on 26.12.1973 in which, he has stated that he had sold out an extent of 08.00 acres in S.F.No.276, 277 in favour of the sons of Palanichamy Gounder during the year of 1968, for which no documentary evidence was produced by him. Rather, the Village Karnam in his statement has stated that part of land had been sold out to Palanichamy Gounder's sons on 14.03.1973. In his order under Section 10(5) of the Act, the Authorized Officer has stated that the sale in S.F.No.276 has been made during the year 1973 and as the sale was made after the crucial date, his objection was overruled. Now, the petitioner states that the land was sold vide document No.2800/1968, dated 27.09.1968 and encumbrance for the sale of 08.00 acres in S.F.No.276 was made during the year 1968 in favour of Pachaiappa Gounder and Nachimuthu Gounder. But, the landowner failed to produce the sale deed document at the appropriate time before the Assistant Commissioner for exclusion of those land from the holdings of the landowner or submit in any other appellate forum. As per the notification under Section 18(1) of the Act, dated 20.06.1979 and amendment to notification dated 26.10.1983, S.F.No.276 did not find place in the lands declared as surplus but in the retainable portion. Now, after the lapse of nearly 25 years, the landowner's son, the petitioner herein, has chosen to file this revision petition for exclusion of 8.00 acres included from the holdings of the landowner and to re-determine the holdings of the landowner. Therefore, this is only an afterthought and hence contention has no force.

14. The respondent submits that the holdings viz., K.R.Raju were determined under the Tamil Nadu Land Reforms (FCL) Act, 1961 as amended by Act 17/70 and the landowner has also admitted that the lands in S.F.No.276 and 277 were owned by him along with other lands. Further in the Draft Statement under section 10(1) of the Act published on 16.03.1973, the land in S.F.No.276, 277 were included in the holdings of the landowner cannot be converted as viz., as per the Act. Therefore, these contentions are not sustainable in law. The failure of the land owner to produce documentary evidence in support of his claim of sales effected by him, at the appropriate stages of the

proceedings, and the failure of the land owner to file form II return under section 8 of the Act and thereby, violates the provisions of the Act. There is no shirking of the responsibility by the Authorized Officer and he has done his duty as per section 9(2) of the Act.

15. The respondents submits that in this case the Draft Statement under Section 10(1) of the Act was published in the Tamil Nadu Gazette dated 16.05.1973 determining the surplus extent of 51.20 ordinary acres equivalent to 12.800 standard acres. On the objections raised by the landowner, under section 10(5) of the Act was passed by the Authorized Officer (L.Ref) Erode on 17.10.1976. Thereafter, Final Statement under section 12 of the Act was published in the Tamil Nadu Government Gazette dated 20.06.1979. For certain reasons, the land owner filed a Revision Petition in F2/272/79 against the 18(1) notification published in the Tamil Nadu Government Gazette on 20.06.1979. The Land Commissioner in his order dated 31.12.1979 stayed the further action in this case. Finally, in this order dated 10.07.1980 dismissed but directed to consider the alternate land in S.F.No.278 and 608/1. The Assistant Commissioner passed order under Section 15 of the Act, dated 30.07.1981. Therefore, an amendment to notification under section 18-C of the Act was published in the Tamil Nadu Government Gazette dated 26.10.1983. Assignment proceedings were also completed in the year of 1990. After 25 years of first assignment, still valid, the landowner filed a Revision Petition before the Land Commissioner, Chennai on 09.07.2008 and it is numbered as D1/RP/19/2008(L.Ref). The Land Commissioner in its order dated 13.01.2011 dismissed the Revision Petition with the observation that the claim of exclusion and deletion of properties cannot be complied with after such a long lapse of time. The order of the Land Commissioner is as per the provisions of the Act. Therefore, the contention of the petitioner in this ground is untenable. The respondent submits that the surplus lands were already assigned to poor people and deeds of assignment were issued to them on 22.02.1990 and the land absolutely vests with the assignee as per Rule 9(1) (iii) (a) of Tamil Nadu Land Reforms (DSL) Rules 1965. Therefore, contention in this ground has no force.

16. The respondent submits that the landowner is attempting to mislead this Court. The 'admitted' as stated is to be read as 'stated by the land owner'. However, there were no supporting documents and only an unauthenticated copy of sale deed of the stated sale of year 1968 was produced only in the year 1977, which is after passing order under section 10(5) of the Act on 17.10.1976. Therefore this contention fails. The respondent submits that as per the objection that an extent of 4.00 acres in S.F.No.273 and 274 remained as "Pallam" after inspection, the Assistant Commissioner (L.Ref), Erode, had

excluded an extent of 1.61 acres while passing orders under Section 10(5) of the Act on 17.10.1976. The crucial date applicable in case of a person, which as per Section 3 (34) includes family, which is defined in section 3 (14) is the 'date of commencement of this Act' which is clearly defined in Section 3(11) and is the 15th day of February 1970. During the process of declaration of surplus, based on the objection of the land owner after inspection on 23.01.1974, the Assistant Commissioner (L.Ref), Erode found that the S.F.Nos.273 and 274 were being cultivated with cholam and the Special Deputy Tahsildar had also inspected the lands on 18.01.1974 and reported that the above S.F.Nos.273 and 274 were fit for cultivation. According, to the Assistant Commissioner (L.Ref), Erode, only an extent of 1.61 acres were remained as "Pallam" and it was accordingly excluded. The tank has been formed in 1984 under soil conservation scheme. The land owner stated the date of 1984 himself. This contention could not be accepted as this formation of tank is after 15.02.1970 ie., the date of commencement of the Act. Therefore, this contention is devoid of merit and also lacks proper understanding and application of Act and Rules. The respondent submits that the Assistant Commissioner (L.Ref) Erode, found that according to partition deed in Document No.4071/1959, dated 29.12.1959 the land in S.F.No.290 to and extent of 3.67 acres was shown as the share of the landowner viz., K.R.Raju. Therefore, this contention is a false statement attempted to mislead this Court. The respondent submits that the Revision Petition in D1/R.P.19/2008 has been dismissed rightly, since due opportunities were given to the landowner and the matter was settled long back i.e., 25 years ago and the claim of the son of the landowner could not be entertained after such a long lapse of time. Therefore, this contention is not sustainable in law.

17. The respondent submits that the deed of assignment has been issued to the assignees on 22.02.1990. The possession of assigned lands will vest with the assignee after 20 years under Rule 91(iii) (a) of the Tamil Nadu Land Reforms (DSL) Rules, 1965 as amended. In case of any violation of conditions of assignment, the rules provide for resumption of land only to Government after cancelling the assignment. So, this contention does not support the case of the petitioner. The respondent submits that the landowner has availed all opportunities provided under the provisions of the Act 58/61 as amended by Act 17/70. The Land Commissioner, Chennai - 5 has dismissed the Revision Petition in D1/R.P.19/2008 (L.Ref), dated 13.01.2011 as devoid of merits. The Land Reforms Act provides various appeal/revisionary provisions at each and every stage of the Land Ceiling Proceedings. Further, the landowner has also availed the opportunities envisaged in the provisions of the Act at the appropriate stage. But the contentions had no merit before the revisionary forum. The contentions raised in this writ petition had been raised earlier, and settled as per law,

over 34 years ago. It is to be noted that once the proceedings under the Act were concluded, after declaring the surplus land finally, the surplus land would vest with the Government. Accordingly, in the instant case, the surplus land vests with the Government as early as in the year 1983. Following this, assignment proceedings were also completed in the year 1990 under Tamil Nadu Land Reforms (DSL) Rules, 1965 amended. According to this Rule, the assigned land will vest absolutely in the assignee after the expiry of period of 20 years from the date of assignment as stated above and thus the lands are now third party's ownership. Hence, the request of the petitioner claiming exclusion and deletion of properties cannot be complied with after such a long lapse of time, i.e., after 28 years. Hence, it was prayed to dismiss the writ petition.

18. The learned counsel Mr.Sivaji appearing for the petitioner submits that the petitioner sold to an extent of eight acres out of 15.93 ordinary acres comprised in Survey No.276, now at Erangampathy Village to Nachimuthu and Pachiappa Gounder under a registered sale deed dated 27.09.1968. The rest of the lands sold in the year of 1973. The respondents while arriving at the conclusion that the lands sold in the year 1968 and 1973 well also taken into account. As such there is mistake committed by the respondents. As such the said to be excluded from the holding of the land owner. The details regarding the alienation has been available on the file of the concerned Register's Office. After the said alienation all the relevant records have been initiated including patta in the name of the purchaser. Therefore, the landowner is not holding any lands, in Survey Nos.276 and 277.

19. The very competent counsel further submits that the lands to an extent of 6 acres comprised in Survey No.274 is not suitable for cultivation. Further on account of leakage of water, the said land is not suitable for cultivation, considering this aspect, the petitioner does not hold surplus lands. Further, the petitioner is not having Civil rights, title interest over the lands comprised in Survey No.290, situated at Erangampathy. Since the lands were standing in the name of Nachimuthu Gounder and Govindammal as per the registered deed dated 06.06.1919. As per the Village and Administrative Officer's report/Karnam, the petitioner does not hold the said land, but the statement given by the Karnam was rejected. The learned Counsel further submits that the 2nd respondent had not verified the Revenue Records and connected records including registered deeds have come to an erroneous conclusion. Further the 1st respondent order is not based on the substantial document. The counter statement filed by the Assistant Commissioner who is attached to the 2nd respondent's Officer, is not a competent authority to file this counter statement. Hence, the learned counsel entreats the Court to reject the said

counter statement since the office of the 1st respondent was abolished and the same assignment has been entrusted to the Revenue Divisional Officer, as per Government Order dated 14.01.2015.

20. The very competent Government Advocate Mr.P.Karthikeyan, appearing for the 1st respondent submits that it is an admitted fact that as per G.O.Ms.No.34, Revenue dated 14.01.2015, the 1st respondent's assignment is transferred to the Revenue Divisional Officer. Even as of now the 1st respondent is equally responsible in the capacity of a competent authority, as such the 1st respondent and the Revenue Divisional Officer are both attached to the State Government and they are functioning under the 1st respondent, as such the counter statement is filed by them and reveal the factual position of the case as such the character of the writ petition will not be affected and will not prejudice the petitioner. The original notification under section 18(1) published in the year 1979. The landowner has filed the revision petition after a lapse of 25 years since the surplus lands were declared in the year 1983. On an earlier occasion the same landowner filed a Revision Petition No.274/79 on the same issue, therefore the writ petitioner cannot initiate one more writ petition, subsequently this writ petition after the outcome of the present writ petition. The learned counsel further submits that the petitioner had not produced the registered document dated 27.09.1968 during the enquiry for deduction from his holdings. Further the 2nd sale deed took place in the year of 1973 is after the date of commencement of the Tamil Nadu Land Reforms Act. The said survey numbers have rightly been included in the retainable position of the Landowner. The writ petitioner is trying to mislead the Court in order to obtain a favourable order. Further the landowner and then Village Karnam have submitted the statement and then the publication was declared in the Government Gazette dated 16.05.1973. At the time of the enquiry the landowner, in his letter dated 18.02.1977 informed the authorized Officer that he has no objection for declaring the lands as surplus comprised in S.F.Nos.278, 279 and 294 but the lands in S.F.No.279 to an extent of 16 acres sold out by him in the year 1968 under a registered sale deed may be excluded from his holdings. To that affect no document was produced, therefore the petitioner's objection was rejected. Against the said order the landowner filed an appeal before the Principal Subordinate Court, Erode. The learned Judge dismissed the said appeal is not maintainable. The final statement was published in the year 1978, subsequently notification under section 18(1) of the Act was published in the Government Gazette dated 20.06.1979 and declared to an extent of 28.21 acres as surplus. Copy of the notification was served on the landowner. The 2nd respondent after well considering the entire factual position of the case and on scrutinizing the relevant documents pertaining to the lands, the petitioner's plea was rejected. Hence, the learned counsel entreats the

Court to dismiss the above writ petition.

21. Considering the facts and circumstances of the case and arguments advanced by the highly competent counsel, this view of the Court that the landowner/father of the petitioner and then Village Karnam were participants at the time of enquiry for acquiring the surplus lands, accordingly the land acquired to an extent of 51.20 ordinary acres after allowing an extent of 60 ordinary acres. Further, the petitioner filed an objection before the Authorized Officer, subsequently, he has filed a no objection for requiring the surplus lands. Thereafter, the final notification was published in the Government Gazette dated 20.06.1979 and declared the subject lands as surplus. After a very long period, the petitioner is seeking the same remedy. Hence, the above writ petition does not generate sufficient force to allow it.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner,
(Land Reforms), Erode.

2.The Land Commissioner,
Chepauk, Chennai - 5.

+1cc to Mr. A. Sivaji, Advocate, S.R.No.61866

+1cc to the Government Pleader, S.R.No.62346

KGK(CO)
EU(02/03/2016)

W.P.No.8725 of 2011