

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 30.08.2016

CORAM

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH

AND

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

W.A. NOS. 1289, 1495 & 1519 OF 2015

AND

M.P. NO. 1 OF 2015

W.A. NO. 1519 OF 2015

1. The Land Commissioner
Chepauk, Chennai 600 005.

2. The Assistant Commissioner
(Land Reforms), Villupuram
(formerly known as Authorized
Officer, Land Reforms, Kancheepuram).

3. The Assistant Commissioner
(ULT), Tambaram.

.. Appellants

- Vs -

1. VGP Housing Pvt. Ltd.
Rep. By its Director
VGP Babudas, VGP Square
Saidapet, Chennai 600 015.

2. Kasturi Estates (Pvt.) Ltd.
Kasturi Buildings
201-A, Anna Salai
Chennai 600 002.

.. Respondents

W.A. NOS. 1495 & 1289 OF 2015

A.Karpagam

.. Appellant

- Vs -

1. VGP Housing Pvt. Ltd.
Rep. By its Director
VGP Babudas
VGP Square, Saidapet
Chennai 600 015.
2. The Land Commissioner
Chepauk, Chennai 600 005.
3. The Assistant Commissioner
(Land Reforms), Villupuram
(formerly known as Authorized
Officer, Land Reforms,
Kancheepuram).
4. The Assistant Commissioner
(ULT), Tambaram.
5. Kasturi Estates (Pvt.) Ltd.
Kasturi Buildings
201-A, Anna Salai, Chennai 600 002.

.. Respondents

W.A. No.1519 of 2015 filed under Clause 15 of the Letters Patent, against the order dated 8.7.2015 passed by the learned Single Judge in W.P. No. 10532 of 2008.

W.A. Nos.1289 and 1495 of 2015 filed under Clause 15 of the Letters Patent, against the order dated 8.7.2015 passed by the learned Single Judge in M.P. No.1 of 2015 in W.P. No. 10532 of 2008.

For Appellants : Mr. A.L.Somayaji, AG, assisted by
Mr. T.N.Rajagopalan, Spl.GP in WA 1519/2015
Mr. Satish Parasaran, SC for M/s.King
& Partridge in WA Nos.1289 & 1495 of 2015

For Respondents : Mr. AR.L.Sundaresan, SC, for
Mr. V.Vasista for R-1 in all the appeals
Mr. A.L.Somayaji, AG, assisted by
Mr. T.N.Rajagopalan, Spl.GP for RR-2 to 4 in
WA Nos.1289 & 1495/2015
No Appearance for RR-2 & 5 in all the appeals

RESERVED ON	17.08.2016
PRONOUNCED ON	30.08.2016

COMMON JUDGMENT

HULUVADI G.RAMESH, J.

These writ appeals arise out of the order passed by the learned single Judge, whereby learned single Judge has directed the authorities to consider the case of exemption sought for by the agreement holders in respect of the acquisition of excess lands under the Land Reforms Act.

2. While W.A. No.1519 of 2015 has been filed by the State assailing the judgment of the learned single Judge, whereby, the learned single Judge had quashed the impugned order and directed the Government to consider exemption of the lands taken over from the petitioner/agreement holder, W.A. Nos.1289 and 1495 of 2015 have been filed by the appellant challenging the

order of the learned single Judge on the ground that the lands, which were allotted to her by the Government, could not be taken away without affording the appellant an opportunity of hearing and on the further plea that already an order in her favour has been passed by this Court, which has attained finality, which the 1st respondent has failed to challenge.

3. The facts, which culminated in the filing of the writ appeals, shorn of unnecessary details, are as under :-

The lands, which are the subject matter of the present appeals, initially belonged to the 2nd respondent herein, who sold the same to the 1st respondent herein, by means of an agreement of sale. It is admitted on record that sale deed has not been executed and registered. The lands were purchased by the 1st respondent herein for the purpose of developing a small scale industry and steps were also taken in that regard. The initial classification of the lands was "agricultural". However, the character of the lands was changed from "agricultural" to "industrial" due to various environmental factors.

4. It is the case of the 1st respondent herein that due to the enactment of the Urban Land Ceiling Act, the lands of the first respondent, situate in Kilambakkam Village in Chengalpet Taluk were declared as Urban Agglomeration

which stood attracted by the above Act on and from 3.8.1976. In view of the above, the first respondent company submitted that the lands partook the character of urban lands and, therefore, fell within the purview of the Urban Land Ceiling Act and, therefore, prayed to the authorities for grant of necessary exemption from the Urban Land Ceiling Act, in view of the intent of the 1st respondent company to start a small scale industry.

5. The 2nd respondent sought exemption under Section 73 (vii) of the Land Reforms Act. After inspection, C.M.A. No.18 of 1976 preferred by the 2nd respondent before the competent authority was dismissed against which the 2nd respondent herein preferred a civil revision before this Court, which was also dismissed on 16.11.1978. Thereafter, the 2nd respondent herein executed an irrevocable power of attorney in favour of the 1st respondent herein, which was also registered. However, vide G.O. Ms. No.1733 Revenue dated 10.08.1979, notification was issued under Section 18 (1) of the Land Reforms Act declaring an extent of 95.74 acres out of the total extent of 118.26 acres held by the 1st respondent as surplus lands. The said order listed the 2nd respondent herein as the owner of the lands. The 2nd respondent sought exemption from the Government to sell the surplus lands of an extent of 115.18 acres. In the interregnum, the 2nd respondent herein filed W.P. No.11898 of 1983 before this

Court, which, on the formation of the Land Reforms Special Appellate Tribunal, Chennai, stood transferred to its file. The said petition in TRP No.59/91 was dismissed by the Appellate Tribunal, whereinafter, the first respondent herein filed SLP No.9192 of 1993 before the Supreme Court, which was also dismissed.

6. When the matter stood thus, after 15 long years, the first respondent herein, the agreement holder, subsequent to the orders of the Supreme Court, in the year 2008, filed a revision before the Land Commissioner challenging the Section 18 (1) Notification issued under the Land Reforms Act. However, the said revision was dismissed as not maintainable against which the first respondent herein moved the writ petition before the learned single Judge. Learned single Judge, while held that the acquisition under the Land Reforms Act is *per se* vitiated as the lands fell within the urban area and, therefore, ought to have been acquired under the Tamil Nadu Urban Land (Ceiling & Regulation) Act, quashed the order passed by the Government and, thereby, released the said lands from the proceedings initiated under the Land Reforms Act and further directed the Government to grant exemption. Aggrieved by the said order, the appellants are before this Court by filing W.A. No.1519/2015.

7. Insofar as W.A. Nos.1289 and 1495 of 2015 are concerned, the

appellant, is an allottee of a portion of land, which was assigned in favour of her husband by the Government under the Ex-Servicemen category. The said lands, to an extent of 1.84 acres in Somangalam Village had been assigned to her husband in the year 1981. The land, which was allotted to her husband was sold without intimation to her and, thereafter, she was allotted alternate land in S. No.192/5. However, the Revenue Department issued a show cause notice for resumption of the above allotment on the ground that the same is required for public purpose, though the nature of purpose was not mentioned. The appellant challenged the same in W.P. No.31052 of 2012 before this Court, which was allowed. Since the Revenue Department did not comply with the order of this Court, Contempt Petition No.3409 of 2014 was filed. However, in the interregnum, the Department filed W.A. No.124 of 2015. The said appeal was dismissed confirming the order of the learned single Judge and the SLP No.13856 of 2015 filed against the said order before the Supreme Court also ended in dismissal. However, curiously, the Revenue Department intimated before the Division Bench of this Court as well as before the Supreme Court that a litigation filed by the 1st respondent herein with regard to the subject land is pending, but the Courts proceeded to allow the issue in favour of the appellant. Thus, the order of the single Judge setting aside the show cause notice for resumption of the lands allotted to the appellant having reached finality, the Revenue

Department ought to have confirmed the allotment in her favour. In spite of the above order having reached finality, the Revenue Department had not allotted the land to the appellant, but on requisition of the appellant, intimated that the allotment will be done after vacating of the status quo order passed in W.P. No.10532 of 2008. Therefore, left with no other alternative, the appellant awaited the outcome of the petition filed by the 1st respondent herein and on the same being allowed and the appellant having been denied her right of allotment, she has approached this Court challenging the said order passed by the learned single Judge.

8. Mr.A.L.Somayaji, learned Advocate General appearing for the appellant in W.A. No.1519 of 2015, submitted that the petition filed by the agreement holder/first respondent herein stands hit by *res judicata* inasmuch as the matter in dispute has already been agitated upto the Supreme Court and the action of the Government has been confirmed. Though the initial revision and the subsequent legal proceedings were filed by the land owner, viz., the 2nd respondent herein and the matter reached finality, the said action would stand as a bar for the 1st respondent/agreement holder to proceed with a fresh batch of litigation. It is submitted by the learned Advocate General that proceedings were initiated under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act,

1961 and the surplus lands were notified and possession was also taken from the land owner/2nd respondent herein. However, the present petition has been filed by the 1st respondent/agreement holder contending that the lands are urban lands and, therefore, action should have been initiated under the Urban Land Ceiling Act is a total misconception and is an act on the part of the 1st respondent to mislead the Court and to drag the proceedings further. It is submitted by the learned Advocate General that the lands have been classified as agricultural dry lands and, therefore, they were notified as surplus lands under the Land Reforms Act and Section 18 (1) notification was also published under the Land Reforms Act. It is submitted by the learned Advocate General that the lands in question are agricultural lands, as defined under Section 3 (22) of the Land Reforms Act and as such the question of entertaining the writ petition at the behest of the agreement holder contending that the lands fall within the urban agglomeration and is not covered by the Land Reforms Act does not hold water. It is further contended by the learned Advocate General that the lands, which are the subject matter of the present petition, recourse to legal proceedings having reached finality by virtue of the order of the Supreme Court, the present petition filed by the agreement holder, getting into the shoes of the land owner is not permissible and the agreement holder, viz., the 1st respondent herein, has no *locus standi* to file the present petition. In a nutshell, the learned Advocate General submits

that the matter in issue having attained finality, the 1st respondent herein, who is the writ petitioner, has no *locus standi* to question the correctness of the order, more so, when the earlier round of litigation acts as *res judicata* and bars the 1st respondent herein to reagitate the issue.

9. Learned Advocate General relied upon the judgment of the Karnataka High Court in ***K.Bangarappa (by His LRs) – Vs – State of Karnataka & Ors. (MANU/KA/0750/2010)***, wherein the Karnataka High Court has held that mere agreement of sale creates no legal interest or right in the property, which is the subject matter of agreement and that would not also confer *locus* on the person.

10. Mr.Satish Parasaran, learned senior counsel appearing for the appellant in W.A. Nos.1289 and 1459 of 2015, while concurring with the arguments of the learned Advocate General, in principle, submitted that the allocation of land insofar as the appellant by way of assignment, having been upheld by this Court, the Government is bound to assign the lands in favour of the appellant, more so when the Government has categorically admitted that they will allot the lands on the basis of the order of this Court on vacating the order of status quo.

11. Insofar as the issue relating to W.A. No.1519 of 2015 is concerned, while learned senior counsel concurred with the view of the learned Advocate General on the plea of *res judicata*, further submitted that the present petition is nothing but an abuse of process of this Court, when all the remedies have already been exhausted in the previous round of litigation. It is therefore submitted that the present claim of the first respondent is hit by *res judicata* and squarely attracts the scope of Section 11 of the Code of Civil Procedure.

12. It is further submitted that the 1st respondent is a mere agreement holder, more specifically, unregistered agreement holder as their own averment disclose that no sale deed has been executed in their favour by the 2nd respondent herein. Therefore, the 1st respondent has no *locus* to project himself before this Court and challenge the Section 18 (1) Notification.

13. It is the further contention of the learned senior counsel that the transfer by way of the agreement of lands between the respondents herein, viz., VGP and Kasthuri Estates, is hit by Section 23 of the Act as any transaction done after the coming into force of the Land Reforms Act, would render the transfer void as is evident from Section 22 and 23 of the Land Reforms Act.

14. It is further pleaded by the learned senior counsel that the 1st respondent, viz., VGP, has informed this Court through their affidavit, more particularly para 9, that liberty has been given to them by the Supreme Court to approach the State Government for exemption under Section 37-A of the Land Reforms Act. However, the said averment of the 1st respondent is a manifest manipulation of the order of the Supreme Court, as the order of the Supreme Court reveals that the Special Leave Petition was summarily dismissed without any liberty. However, the said fact has been suppressed to garner benefit in favour of the 1st respondent to file the writ petition, which act, in itself, is an abuse of process of Court with a view to mislead the Court and obtain favourable orders. Further, the order of the Supreme Court was passed way back in the year 1993 and after a period of 15 years, the petitioner/1st respondent herein has approached this Court.

15. Mr.Satish Parasaran further contended that with a view to give effect to the Directive Principles of State Policy as is reflected in Article 39 of the Constitution of India, the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act was enacted, which vested the power with the Government to acquire lands in excess of the ceiling mandated under the Act and to make the same available for distribution amongst the landless and other persons in accordance with the

Rules. That being the case, the 1st respondent, under the guise of agreement holder, by way of a second round of litigation, cannot try to thwart the welfare legislation, which is intended for the downtrodden and oppressed community.

16. Without considering all the above aspects, learned single Judge has traversed on a tangent and allowed the writ petition filed by the 1st respondent, which is against all the canons of judicial ethics and, therefore, the order of the learned single Judge necessarily has to be set aside and the writ appeals allowed.

17. Per contra, Mr.AR.L.Sundaresan, learned senior counsel appearing for the agreement holder submits that the 1st respondent agreement holder, in pursuance of the agreement entered into between the 1st respondent and the 2nd respondent herein, purchased the said lands and have been in possession since the April, 1974 and even steps have been taken by the 1st respondent to develop a small scale industry. Learned senior counsel submitted that though the lands have been classified as agricultural lands, however, due to efflux of time and other environmental factors, the present position of the lands is that it is stony with no irrigational facility and that ground water is also scarce and, therefore, due to its nature, it is only preferable to use the same for industrial purpose. It is the further submission of the learned senior counsel that the Assistant

Commissioner, in the wake of the field survey conducted of the lands in question, had opined that lands are situate close to urban development areas and utilisation of the said lands for agricultural purpose would not be conducive. Learned senior counsel further submitted that the lands, which form the subject matter of the present case, though being agricultural lands, have not been put to agricultural use for a very long time and, therefore, they acquired a character of urban lands and are only covered under the Urban Land Ceiling Act. In such backdrop, it is the contention of the learned senior counsel for the 1st respondent that once the lands partake the character of urban lands, the notification issued under Section 18 (1) of the Land Reforms Act for acquisition of the same under the said Act is impermissible and such an action is legally untenable. Therefore, the extent of 95.74 acres, which have been declared as surplus lands from out of the extent of 118.26 acres cannot stand the test of legal scrutiny and, in view of the above mentioned lacunae in the notification issued under Section 18 (1) of the Land Reforms Act, the 1st respondent herein/petitioner is entitled for exemption from acquisition, which has been rightly granted by the learned single Judge.

18. It is the further contention of the learned senior counsel for the 1st respondent that though the lands are urban lands, notification has been issued

under Section 18 (1) of the Land Reforms Act. The said notification is totally unsustainable for acquisition of lands under the urban category as only agricultural lands can be acquired by issuing notice under the Land Reforms Act. In case of acquisition of urban lands, notification needs to be issued under the Urban Land Ceiling Act. Therefore, it is the submission of the learned senior counsel that the issuance of notification under Section 18 (1) of the Land Reforms Act for acquisition of lands, which are classified as urban lands, would amount to exercise of jurisdiction not conferred by the said Act and, therefore, the said exercise has to be struck down, which has been rightly done so by the learned single Judge and, therefore, the said order doesn't warrant any interference at the hands of this Court.

19. It is the further contention of the learned senior counsel that the 1st respondent, being the agreement holder consequent upon the agreement of sale entered into between the 1st respondent and the 2nd respondent herein, has questioned the acquisition, that too, an acquisition, which has not been done under the Urban Land Ceiling Act and, therefore, the 1st respondent has the *locus* to question the wrongful act committed by the appellant/Government. It is the further submission of the learned senior counsel that the 1st respondent has not suppressed any material facts and the 1st respondent has only quoted that

portion of the oral observation of the Supreme Court, by which liberty was granted to the 1st respondent to approach the Government for exemption.

20. It is the further contention of the learned senior counsel for the 1st respondent that reasonable opportunity of hearing as envisaged under Section 9 (2) (b) of the Land Reforms Act has also not been afforded to the 1st respondent, which makes the impugned order liable for being set aside as the principles of natural justice has not been complied with before passing the impugned order.

21. Singularly, it is the submission of the learned senior counsel for the 1st respondent that the appellant/Government not having resorted to issue notification under the relevant Act, cannot take shelter under the first round of litigation to defeat the rights of the 1st respondent on the ground of *res judicata*. Accordingly, learned senior counsel prayed for affirming the order passed by the learned single Judge.

22. In support of the above submissions, learned senior counsel for the 1st respondent placed reliance upon the following decisions :-

i) *T.Arivandandam – Vs – T.V.Satyapal & Anr. (1977 (4) SCC 467)*;

ii) B.P.Samiappan & Ors. - Vs – Arunthavaselvan & Ors. (1994 (1) LW 399);

iii) Union of India & Anr. - Vs – Sher Singh & Ors. (AIR 1997 SC 1796);

iv) Suganthi Suresh Kumar – Vs – Jagdeeshan (2002 (2) SCC 420);

(v) Shakuntla Devi – Vs – Kamla & Ors. (2005 (5) SCC 390);

(vi) South Central Railway Employees Co-op. Credit Society Employees Union – Vs – B.Yashodabai & Ors. (2015 (2) SCC 727)

23. Heard the learned Advocate General appearing for the appellant in W.A. No.1519 of 2015, Mr.Satish Parasaran, learned senior counsel appearing for the appellant in W.A. Nos.1289 and 1495 of 2015 and Mr.AR.L.Sundaresan, learned senior counsel appearing for the 1st respondent/VGP and perused the materials available in the typed set of records as also the judgments relied on by the learned senior counsel on either side.

24. It is not in dispute that in the earlier round of litigation, the 2nd respondent herein, who is the owner of the lands, took it to its logical conclusion upto the Supreme Court, but, however, failed. In essence, the act of acquisition, which has been upheld by the Tribunal and confirmed by this Court has been affirmed by the Supreme Court. The facts, insofar as the said litigation is

concerned is not in dispute. The contention raised before the learned single Judge was that notification was issued under the Land Reforms Act, though the lands are urban lands and, therefore, the said notification is bad in law. Incidentally, it is also argued that the lands, which have been classified as surplus lands, are urban in character and not agricultural lands and, therefore, notification under the Land Reforms Act is impermissible.

25. To answer the above issue, it would be useful to refer to Section 3 (22) of the Land Reforms Act, which defines “land” and the same is extracted hereinbelow for better clarity :-

*“(22) “**land**” means agricultural land, that is to say, land which is used or capable of being used for agricultural purposes or purposes subservient thereto and includes forest land, pasture land plantation and tope, but does not include house-site or land used exclusively for non-agricultural purposes.”*

26. A reading of the above section clearly stipulates that lands, which are capable of being used for agricultural purposes including forest land, pasture land plantation and tope, however excluding house site or any other lands exclusively used for non-agricultural purposes would well fall within the ambit of the above Section.

27. According to the State, the lands acquired vide the above notification are agricultural lands and, therefore, the Land Reforms Act stand attracted, while according to the 1st respondent, the lands are urban lands and would not fall under the purview of the Land Reforms Act.

28. To answer this point, it would be apt to refer to the earlier decision of this Court in CRP No.3428 of 1976. Vide the said judgment dated 16.11.1978, which was instituted at the instance of the land owner, viz., the 2nd respondent herein, an argument was advanced that the land in question was inspected by the officers of the Government and a report was prepared stating that the subject lands were waste lands and ploughed up here and there and there were trees standing in a few places and that the same is not capable of cultivation. However, after exhaustive discussion, it was held by the learned Judge therein that the records conclusively establish that the lands were cultivable lands and were capable of cultivation and would very much fall within the definition of "land" contained in Section 3 (22) of the Land Reforms Act. Learned Judge, in the said decision, also highlighted that though an attempt was made to show that inspection was conducted by the officers, who opined that the lands are not cultivable, however, no pertinent material has been placed before the Court to

establish the same. The Court went on to point out that in the order of the Tribunal, the Tribunal has observed that though it is argued that the lands are rocky and barren lands, however, no material has been placed to show that such nature of lands makes it incapable of cultivation. The Tribunal pointed out that the lands have been classified as “punja” lands, which means that the lands could be brought under the plough and went on to hold that even though there may be no actual source of irrigation, the same would not render the lands as non-agricultural lands. The Tribunal further went on to hold that the lands have been classified as agricultural lands by the Revenue Authorities as capable of cultivation. In the light of the above factual aspects, learned Judge went on to hold that the definition of land as contained in Section 3 (22) does not require actual cultivation of land, but that it must be capable to be used for cultivation. Accordingly, it was held that the lands are very much “punja” lands capable of cultivation and are, therefore, agricultural lands and, therefore, the acquisition under the Land Reforms Act is perfectly permissible.

29. The above decision of the learned Judge was taken on appeal before the Supreme Court, which, in turn, dismissed the appeal by a curt order “Special Leave Petition is dismissed”. Accordingly, the order reached finality insofar as the acquisition process initiated under the Land Reforms Act is concerned.

30. Now, after a lapse of over two decades, the agreement holder has come before this Court with a writ petition praying that the notification issued in respect of the lands under the Land Reforms Act is unsustainable as the lands are urban lands. A further plea has also been taken that the procedure as contemplated under Section 9 (2) (b) of the Land Reforms Act has also not been complied with which makes the acquisition bad in law.

31. On the issue whether the lands are agricultural lands, which are cultivable or not, it has been categorically held by the learned Judge in CRP No.3428 of 1976 that the lands do fall under the definition of “land” under Section 3 (22) of the Land Reforms Act, though no actual cultivation has taken place. The said decision has been confirmed by the Supreme Court on appeal by the land owner and, therefore, the same has reached finality. It is also evident from the record that no liberty has been granted by the Supreme Court in the said order to the land owner to approach the Tribunal, though it is the contention of the learned senior counsel for the agreement holder that an oral observation was made by the Supreme Court granting liberty to the land owner to approach the Government. However, even if this Court is to take the word of the learned senior counsel that liberty was granted, it is only for the land owner. However,

the present petition has been filed by the agreement holder and, therefore, would not stand covered by the observation, if any, made by the Apex Court as contended by the learned senior counsel. Therefore, the liberty, if at all, said to have been granted by the Supreme Court, would be only insofar as the land owner is concerned and the same would not cover the foot prints of the agreement holder.

32. It is evident from the record that no plea has been taken by the land owner with regard to the notification issued under the Land Reforms Act. The land owner has all along accepted the notification and contested the matter. The agreement holder, being just a representative standing in the shoes of the land owner, cannot have a better say than the land owner and cannot take a plea contra to the one already taken and accepted by the land owner. The agreement holder claims his locus on the basis of the agreement entered between him and the land owner, viz., the 1st and 2nd respondent herein. However, mere agreement of sale entered into between the parties for the sale of land would not create any legal interest for the agreement holder in the property. Title does not gets passed on to the agreement holder in the absence of any sale deed. This position of law has been settled by the Division Bench of the Karnataka High Court in *Bangarappa's case (supra)*, on which reliance was placed by the learned

Advocate General. Useful reference can be had to the following passage of the judgment, which is extracted hereinbelow :-

“6. Mere agreement of sale creates no legal interest or right in the property which is the subject-matter of agreement. No propriety title in the property has passed on to the appellant and hence he has no right to oppose/question the claim of the tenant-3rd respondent. His right, if any, is only to seek enforcement of the alleged agreement dated 2.3.1969 against 4th respondent, had not the land vested in the State and the occupancy rights were not granted in favour of the 3rd respondent. In the said view of the matter, learned Single Judge is justified in holding that, writ petitioner has no locus standi to question the impugned order in the writ petition.”

33. In view of the above decision of the Karnataka High Court, which case rests on identical facts with regard to the land owner and the agreement holder, this Court holds that the agreement holder, viz., the 1st respondent herein, has no *locus standi* to question the impugned notification and seek for exemption. Further, the agreement holder also cannot step into the shoes of the land owner and file the present petition on the basis of the so-called oral observation made by the Supreme Court, which is not borne out by record.

34. Further, it is also to be mentioned that the reliance placed on the

inspection notes of the authorised officer dovetailing that the lands are unfit for agriculture and cannot be classified as agricultural lands, also does not improve the case of the 1st respondent. A perusal of the typed copy of the inspection notes reveal that it does categorise the the lands either as agricultural lands or urban lands. It merely gives a depiction of the sight of the lands as seen by the authorised officer. However, the revenue records, on which reliance has been placed by the Tribunal and accepted by the learned Judge in the earlier round of litigation, depicts the said lands as punja lands, meaning thereby that the lands are agricultural lands. In the above backdrop, as has been held by the learned Judge in CRP No.3428 of 1976, there is nothing on the record worth mentioning to suggest that the lands are not agricultural lands.

35. Insofar as the issue relating to non-furnishing of opportunity as contemplated under Section 9 (2) (b) of the Land Reforms Act, it would be trite to refer to Section 9 (2) (b) of the Land Reforms Act, which is reproduced hereinbelow :-

"9. Collection of Information.-

(2) (a)

(b) The Authorized Officer shall, as soon as may be, after obtaining the information under clause (a), give to the person concerned a reasonable opportunity of making his representation

and of adducing evidence, if any, in respect of such information and consider any such representation and evidence and pass such order as he deems fit.”

36. It is to be mentioned here that during the first round of litigation at the instance of the land owner, no such plea on the above aspect has been taken. Further, the record reveals that after affording opportunity, the Authorized Officer has passed the order, which has been upheld by the Tribunal, this Court and finally the Supreme Court. Further, it is also not in dispute that compensation has been awarded for the lands sought to be acquired, which the land owner has refused to receive. The above acts clearly establish that opportunity was afforded to the land owner as envisaged under Section 9 (2) (b) of the Act and, thus, there is no violation of principles of natural justice, lest the land owner would definitely have taken a plea on this aspect in the earlier round of litigation. Such being the case, it is not necessary once over to give an opportunity to the agreement holder on his filing a revision/petition before the concerned authority. Therefore, the contention of the 1st respondent that there is violation of procedure contemplated under Section 9 (2) (b) of the Act is not sustainable. Further, the agreement holder cannot blow hot and cold over the same issue, as on the one hand, the agreement holder claims that the act of the

appellant is bad in issuing notification under the Land Reforms Act for the lands, which are urban in nature and on the other hand claim that no opportunity was given to the agreement holder as contemplated under Section 9 (2) (b) of the Land Reforms Act. The plea of the agreement holder that no opportunity of hearing as contemplated under Section 9 (2) (b) of the Act was given is without any legal basis and this Court is of the opinion that there is no violation of principles of natural justice in not affording opportunity to the agreement holder as contemplated by the above provision of law.

37. This Court, in the above facts and circumstances, is not inclined to enter into the realm of controversy, which is sought to be re-agitated in this second round of proceedings. The proceedings insofar as acquisition is concerned having reached finality, it is not open to the land owner, much less the agreement holder to reopen the matter and re-agitate the same once over. However, since the lands were acquired and it is informed that no sale deed has been executed in favour of the 1st respondent herein by the 2nd respondent herein, it is open to the land owner, viz., the 2nd respondent, viz., Kasthuri Estates, to approach the Government by submitting a representation within a period of four weeks from the date of receipt of a copy of this order to permit the land owner to retain lands of his choice from within the said area, which was notified

for acquisition and it is for the Government to consider the representation of the land owner for permission to retain the lands of his choice from and out of the lands sought to be acquired and pass orders on the said representation within a period of eight weeks from the date of receipt of the said representation.

38. Insofar as the other writ appeals are concerned, viz., W.A. Nos.1289 and 1495 of 2015, wherein the appellant has pleaded that her husband has been allotted lands of an extent of around 1.84 acres, which are part of the lands acquired by the Government in W.A. No.1519 of 2015, a Division Bench of this Court has already held that the said allotment is justified and had directed the Government to allot the lands to the appellant. That portion of the order of this Court having reached finality in view of the Supreme Court dismissing the special leave petition filed by the Government, this Court is not venturing into the said aspect, except directing the Government to reconsider the aspect of allotment of the prescribed extent in the wake of the present soaring market prices in the said area and the Government may reconsider allotment of any extent of agricultural land, keeping the avowed object for the enactment of the Land Reforms Act, as per the provisions of the Land Reforms Act, keeping in mind the soaring prices of land in the said locality. It is needless to state that the priority of the Government is only to keep in mind the avowed object of allotment of land to the

needy for the purpose of earning livelihood and not to make a person unjustly enriched by way of such allotment. In the above backdrop, it is for the Government to provide suitable alternate place to the appellant for the purpose of earning livelihood.

39. For the reasons aforesaid, the order passed by the learned single Judge is set aside. Accordingly, W.A. No.1519 of 2015 filed by the State is allowed with the aforesaid observations and directions. W.A. Nos.1289 and 1495 of 2015, filed by the appellant, are disposed of with the aforesaid observations and directions. Consequently, connected miscellaneous petition is closed. However, in the circumstances of the case, there shall be no order as to costs.

(H.G.R.J.) (M.V.M.J.)

30.08.2016

Index : Yes

Internet : Yes

GLN

To

1. The Land Commissioner
Chepauk, Chennai 600 005.
2. The Assistant Commissioner
(Land Reforms), Villupuram
(formerly known as Authorized
Officer, Land Reforms,
Kancheepuram).
3. The Assistant Commissioner
(ULT), Tambaram.

HULUVADI G.RAMESH, J.
AND
M.V.MURALIDARAN, J.

GLN

PRE-DELIVERY JUDGMENT IN
W.A. NOS. 1289, 1495 & 1519 OF 2015

Pronounced on
30.08.2016