

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:09.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WA.No.900/2017

Ravisankaran ... Appellant / Writ petitioner

Vs

1.The Land Commissioner
Chepauk, Chennai-5.

2.The Assistant Commissioner
[Land Reforms], Villupuram.

3.The Collector
Thiruvallur District, Thiruvallur.

4.The Tahsildar
Gummidipoondi, Thiruvallur.

5.Sakkari Reddiar

6.Ramamoorthy Reddiar

... Respondents

Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in the writ petition in WP.No.10217/2010 order dated 04.11.2015 by the learned Single Judge.

Writ Prayer:Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus directing the respondents 1 to 4 to conduct enquiry on the petitioners representation dated 3.3.2010 pursuant to the orders in writ petition No.24081/2001 dated 12/8/2009.

For Appellant : Mr.G.Suryanarayanan

For RR 1 to 4 : Mr.A.N.Thambidurai, Spl.GP

JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.]

By consent, the writ appeal is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader accepts notice on behalf of the respondents 1 to 4.

2 The facts leading to the filing of this writ appeal has been narrated in detail and in extenso in the impugned order passed in the writ petition in WP.No.10217/2010 and therefore, it is unnecessary to re-state the facts once again.

3 The writ petitioner/appellant, on an earlier filed WP.No.24081/2001 against the respondents 2 and 3 herein as well as against the Chairman, Tamil Nadu Land Reforms Special Appellate Tribunal, Chennai, to quash the order passed in the Special Revision Petition No.11 of 2000 dated 01.02.2001 on the file of the Tamil Nadu Land Reforms Special Appellate Tribunal, Chennai, in confirming the order dated 07.09.1999 passed by the Land Commissioner, Chennai-5, made in RP.No.17/1998.

4 The matter in issue pertains to the proceedings under the Tamil Nadu Land Reforms [Fixation of Ceiling on Land] Act, 1961 [Tamil Nadu Act 58 of 1961 as amended by Act 17/1970 and Act 47/1971]. A Division Bench of this Court, while partly allowing the said writ petition, vide order dated 12.08.2009, in paragraph No.6, has observed as follows:-

".... 6 So in view of the above facts and circumstances, the finding of the Tribunal with regard to the issue [viz, the land owner is not entitled to claim 10 std acres as Stridhana properties over and above the ceiling area as liable to be set aside and it is accordingly, set aside ; and the land owner; Thirupoorammal is entitled to hold 10 standard acres as Stridana properties in addition to the 15 acres of family holding."

5 The Division Bench, while issuing such a direction, did not specify the outer time limit and therefore, the petitioner submitted a representation dated 03.03.2010, to the respondents 1 and 2 herein praying for appropriate orders, in the light of the above said directions and since the said representation has not been given disposal, the writ petitioner / appellant filed WP.No.10217/2010, praying for issuance of a writ of mandamus, directing the respondents 1 to 4 therein to conduct enquiry on the writ petitioner's representation dated 03.03.2010 in pursuant to the order dated 12.08.2009 made in WP.No.24081/2001.

6 The writ petition came up for admission and after completion of service, the writ petition was taken up for final disposal on 04.11.2015. The private respondents though served, did not enter appearance. The learned Single Judge after taking note of the rival submissions and the facts and circumstances held that the Court cannot act an Executive to execute the order dated 12.08.2009 made in

WP.No.24081/2001. Citing the said reason, the learned Single Judge had dismissed the writ petition on 04.11.2015 and challenging the legality of the said order, the writ petitioner / appellant came forward to file the present writ appeal.

7 Mr.G.Suryanarayanan, learned counsel for the petitioner has invited the attention of this Court to the order dated 12.08.2009 made in WP.No.24081/2001 and would submit that since no outer time limit is fixed, the petitioner was constrained to submit a representation to the respondents 1 and 2 herein to pass orders in the light of the above cited order passed by the Division Bench and the learned Single Bench of this Court, without properly considering and appreciating the relevant facts and circumstances, has erroneously dismissed the writ petition and prays for interference.

8 The Court heard the submissions of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 to 4 and perused the materials placed before it.

9 It is also brought to the knowledge of this Court that no further challenge has been made to the order dated 12.08.2009 made in WP.No.24081/2001. The Division Bench of this Court, while partly allowing the said writ petition, has held that the land owner, viz., Tmt.Thirupoorammal, is entitled to 10 standard acres as Sreedana properties in addition to 15 acres of family holding properties. The appellant claims to be the foster-son of the said Thirupoorammal and in the form of representation dated 03.03.2010, the appellant merely wanted the implementation of the order dated 12.08.2009 made in WP.No.24081/2001.

10 In the result, the writ appeal is allowed and the impugned order made in WP.No.10217/2010 dated 04.11.2015 is set aside and the 2nd respondent is directed to consider the representation of the appellant/writ petitioner dated 03.03.2010 and the appellant/writ petitioner is also permitted to submit a reminder representation within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 2nd respondent is directed to put the respondents 5 and 6 on notice and also take note of the order dated 12.08.2009 made in WP.No.24081/2001 and pass appropriate orders in accordance with law within a further period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner as well as to the respondents 5 and 6. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Land Commissioner
Chepauk, Chennai-5.

2.The Assistant Commissioner
[Land Reforms], Villupuram.

3.The Collector
Thiruvallur District, Thiruvallur.

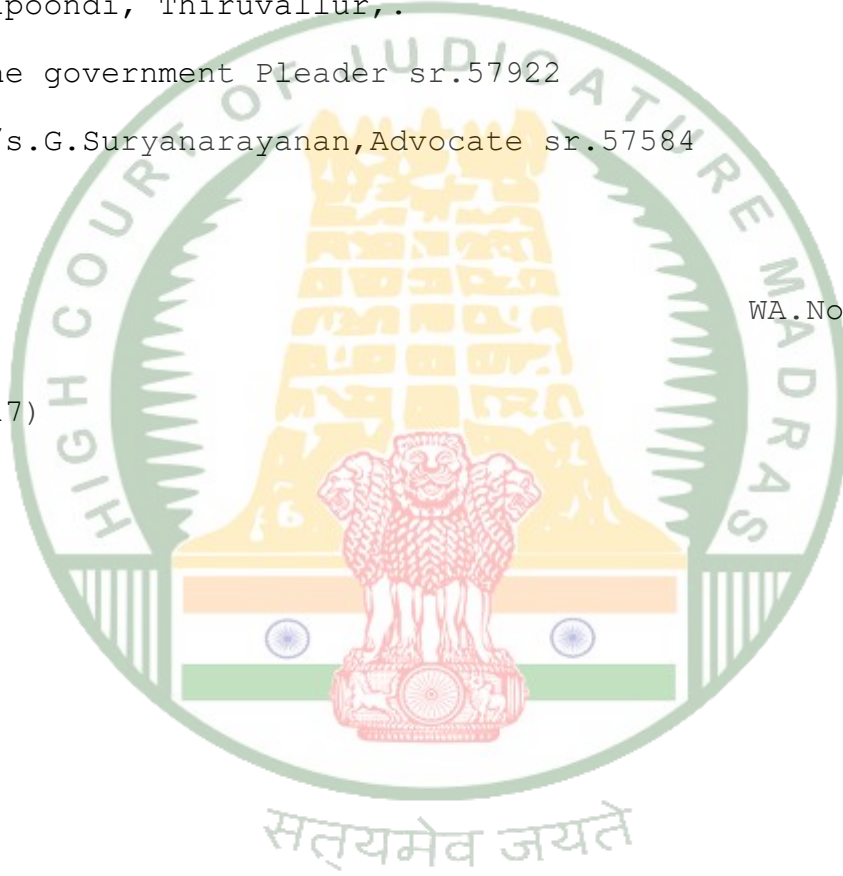
4.The Tahsildar
Gummidipoondi, Thiruvallur,.

+1cc to the government Pleader sr.57922

+2cc to M/s.G.Suryanarayanan,Advocate sr.57584

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