

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2017

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THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

And

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1669 of 2016

And

C.M.P.No.20676 of 2016

M.R.Palanisamy ... Appellant

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Revenue,
Fort St.George,
Chennai - 600 009.
- 2.The Commissioner (Land Reforms),
Ezhilagam, Chepauk,
Chennai - 600 005.
- 3.The Assistant Commissioner (Land Reforms),
Jawans Bhavan,
Near Pattakarar Buildings,
Gandhiji Road, Erode. Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters of Patent praying to set aside the order dated 06.11.2015 made in W.P.No.14931 of 2007.

Prayer in WP.14931 of 2007: Writ petition filed under Article 226 of the Constitution of India for a Writ of Certiorarified to call for the records relating to G.O.Ms.No.2 Revenue (LR.1(2)) dt 3.1.2007 as published in Tamilnadu Government Gazette Part II Section 1 dt 14.2.2007 issued by the 1st respondent and to quash the same.

For Appellant	: Mrs.Chitra Sampath Senior Counsel for M/s.S.Saravanan
For Respondents	: Mrs.A.Srijayanthi Special Government Pleader

J U D G M E N T

(Judgment of the Court was delivered by P.VELMURUGAN,J.)

This appeal is arising out of the order passed by the learned Single Judge in W.P.No.14931 of 2007 dated 06.11.2015.

2.According to the appellant, he is the owner of the land comprised in S.Nos.215/2, 218, 219, 220, 221/2, 221/1 and 222/2 of Uthiyur Village, Kangayam Taluk, Erode District, measuring an extent of 31 acres which is equivalent to about 8 standard acres. Apart from this the appellant had settled an extent of 16 acres in S.F.Nos.196/D, 198, 738/A and 737/A of Mudalipalayam Village, Dharapuram Taluk in favour of his sister Kamalam by way of a Deed of Settlement, dated 07.02.1970 and registered as Document No.1312/70 on the file of the District Registrar, Coimbatore and had settled an extent of 20.67 acres comprised in S.F.No.216 and 217 of Uthiyur Village in favour of his another sister Poongothai by way of a Deed of Settlement dated 21.01.1970 and registered as Document No.1373 of 1970 on the file of the District Registrar, Coimbatore.

3.The Government initiated proceedings under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land), 1961 in the year 1976. The appellant submitted objection stating that the aforesaid properties were settled prior to the date of commencement of Act 17 of 1970 and hence, the said lands should be excluded. Thereafter, the Authorised Officer vide his proceedings dated 24.06.1976 declared the lands in S.Nos.210/1, 211/1, 214 and 215/1 measuring an extent of 30.57 acres as excess lands and they were assigned to various beneficiaries belonging to Harijan families and pattas were also granted to them. Thereafter, the respondent also reopened the proceedings under Section 6 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1994 and declared the lands in S.Nos.215/2, 218, 219, 220, 221/2, 222/1 and 222/2 also as surplus lands. The Government vide Notification dated 14.02.2007 published in the Tamil Nadu Government Gazette in Part II Section I allotted the lands declared as surplus to the beneficiaries. Challenging the said Notification, the appellant filed writ petition in W.P.No.14931 of 2007. The learned Single Judge vide order dated 06.11.2015, dismissed the writ petition. Aggrieved over the same, the appellant has filed this appeal.

4.The learned Senior Counsel appearing for the appellant would submit that proceedings were initiated under the provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) as amended by the Tamil Nadu Act 17 of 1970 as against the appellant's property in the year 1976 wherein the Authorized Officer had considered the objection of the appellant that he

had settled the property on 07.02.1970 prior to the date of commencement of the Act as it is not covered by Section 22 of the Act 17/1970 by proceedings in No.15 P/MRI/17/70A dated 24.06.1976 after excluding the said property of an extent of 14.842 standard acres were held to be surplus. After competent Authority had excluded the land that were settled on 07.02.1970 prior to the date of commencement of the Act from the purview of the Land Ceiling Act in conformity with the provisions of Section 22 of the Principal Act respondents ought not have invoked Section 6 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act, 1994.

5.The learned Senior Counsel further submitted that the appellant had settled the property comprised in S.Nos.196/D, 198, 738/A and 737/A of Uthiyur Village measuring to an extent of 20.67 acres by way of Settlement Deed dated 21.01.1970 by way of document registered as Document No.1373 of 1970 in favour of Kamalam and S.F.No.216 and 217 of Uthiyur Village in favour of his sister Poongothaian extent of 16 acres in favour of his another sister Poongothai by way of Deed of Settlement dated 07.02.1970 and registered as Document No.1312 of 1970.

6.Further, the learned Senior Counsel would submit that as per Section 47 of the Indian Registration Act, a document which requires registration relates back to its date of execution on registration and not from the date of registration. The Settlement Deeds executed by the appellant would relate back to 21.01.1970 and 07.02.1970 which is prior to the date of commencement of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 as amended by the Tamil Nadu Act 17 of 1970. Therefore, Section 22 has no application to Settlement Deed executed by the appellant.

7.Heard both sides.

8.The main contention of the appellant is that the amended provisions will not apply to the appellant's case as the settlement were made prior to the commencement of the Act and is not attracted by Section 22 of the Act as well as the fact that Authorised Officer has already considered the question as to the applicability of the Act and registered a finding that the Settlement Deed executed prior to the commencement of the Act does not get attracted by the provisions of Section 22 of the Act and excluded the lands which were subject matter of settlement which were excess land had erroneously reopened the appellant case and included the land which were transferred prior to the commencement of the Act.

9.The learned Senior Counsel appearing for the appellant would mainly contend that the learned Single Judge has not

considered these aspects and he has not assigned any reason for dismissing the writ petition.

10.As pointed out by the learned Senior Counsel appearing for the appellant and a perusal of the available records and the order passed by the learned Single Judge, the learned Single Judge while dismissing the writ petition, has not assigned any reason for dismissing the writ petition.

11.Hence, considering the rival submissions made by both the counsel particularly, the contention of the learned Senior Counsel appearing for the appellant, that the learned Single Judge while dismissing the writ petition, has not assigned any reason for dismissing the writ petition, we are of the view that interest of justice would be subserved by remanding the writ petition to the writ Court for fresh consideration, in accordance with law.

12.In the result, the order of the learned Single Judge dated 06.11.2015 is set aside. The appeal is partly allowed and the matter is remitted back to the writ Court for fresh consideration, in accordance with law. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar (CS VI)

//True copy//

Sub Assistant Registrar

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To

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Revenue,
Fort St.George,
Chennai - 600 009.
- 2.The Commissioner (Land Reforms),
Ezhilagam, Chepauk,
Chennai - 600 005.
- 3.The Assistant Commissioner (Land Reforms),
Jawans Bhavan,
Near Pattakarar Buildings,
Gandhiji Road, Erode.

4.The Section Officer,
Writ Section, High Court,
Madras.

+1cc to Mr.S.Saravanan, Advocate SR.No.82202
+1cc to Government Pleader SR.No.82456

W.A.No.1669 of 2016
And
C.M.P.No.20676 of 2016

RR(CO)
GN(08/01/2018)



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