

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN  
AND  
THE HON'BLE Mr. JUSTICE ABHINAND KUMAR SHAVILI**

**Writ Appeal No.1697 of 2017**

**Judgment:** (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P. No. 847 of 2008 dated 21.12.2015.

The appellants herein are the respondents in the Writ Petition. The 1<sup>st</sup> respondent herein filed the said Writ Petition to declare the action of the appellants herein, in not fixing the market value of the land of an extent of Acs. 0.21 cents in Survey No. 287 of Palamaner Village as directed by the Special Chief Secretary to the Government and the Chief Commissioner of Land Administration dated 18.4.1996, and as per the reports of the Revenue Divisional Officer and the Tahsildar dated 3.11.1996 and 27.8.1996, as illegal, improper, unjust and arbitrary.

The 1<sup>st</sup> respondent was assigned an extent of Acs. 0.21 cents of land on 9.7.1987 treating him as a landless poor person. The said order of assignment was set aside by the Revenue Divisional Officer by his order dated 22.10.1992 holding that the 1<sup>st</sup> respondent was not a landless poor person. The revision preferred thereagainst by the 1<sup>st</sup> respondent was dismissed by the Joint Collector on 6.10.1994. A further revision, preferred by the 1<sup>st</sup> respondent before the Chief Commissioner of Land Administration, was allowed by order dated 18.4.1996; and the subject land of Acs.0.21 cents was directed to be assigned to the

1<sup>st</sup> respondent on fixation of market value on the ground that there was no independent access to the 1<sup>st</sup> respondent-writ petitioner's land as it was bounded on all four sides; and the only way to enter was through these 0.21cents of land. Based on the orders passed by the Chief Commissioner of Land Administration, the District Collector called for a report from the Tahsildar, who submitted his report dated 27.8.1996 proposing Rs.33,000/- per acre as the market value. On the ground that the District Collector did not take any decision in this regard, the 1<sup>st</sup> respondent-writ petitioner filed W.P. No. 8751 of 1998 and the said Writ Petition was disposed of by order dated 31.3.1998 by a learned Single Judge of this Court. The relevant portion of the order of the learned Single Judge reads thus:

“....In such view of the matter, it would be appropriate to direct the second respondent to fix the market value of the land in accordance with the directions of the first respondent by taking the report of the Mandal Revenue Officer dated 27.8.1996 into consideration and such other material as the District Collector may consider it appropriate for the purpose of deciding the market value of the land in question. It is clarified that it is for the District Collector concerned to take appropriate decision in the matter and fix the market value and upon such fixation the petitioner shall pay the same within the time stipulated by the District Collector. An appropriate decision in this regard shall be taken by the District Collector within ten days from the date of receipt of a copy of this order.....”

Despite the order of the learned Single Judge, no decision appears to have been taken by the District Collector resulting in the 1<sup>st</sup> respondent-writ petitioner issuing a legal notice, and

thereafter filing a Contempt Case; and, thereafter, the Writ Petition wherein the order under appeal was passed.

In the order under appeal, the learned Single Judge observed that since W.P. No. 8751 of 1998 was allowed on 31.3.1998, the market value of the land should be determined on the basis of the market value prevailing as on 31.3.1998. The appellants herein were directed to fix the market value as on 31.3.1998 within twelve weeks from the date of receipt of a copy of the order, and the 1<sup>st</sup> respondent-writ petitioner was directed to make payment of the market value within a reasonable time.

While the learned Government Pleader for Assignment would contend that this Court, in proceedings under Article 226 of the Constitution of India, would not take upon itself the task of determining the market value, Sri K.G. Krishna Murthy, learned Senior Counsel appearing on behalf of the 1<sup>st</sup> respondent-writ petitioner, would draw our attention to Board Standing Orders 15(10)(5), which enables an isolated plot of land not exceeding 25 cents of wet or 50 cents of dry, contiguous to and necessary for convenient enjoyment of the lands privately owned by adjoining ryots, to be assigned to them on payment of full market value though they may not be a landless poor person.

Sri K.G.Krishnamurthy, Learned Senior Counsel, would further submit that, since Board Standing Order 15(10)(5) enables an isolated plot of land to be assigned even to persons who are not landless poor provided the land is contiguous to and necessary for the convenient enjoyment of a privately owned land, the Chief Commissioner of Land Administration was justified in directing

that this extent of Acs.0.21 cents land be alienated in favour of the 1<sup>st</sup> respondent-writ petitioner on payment of market value.

As the order of the Chief Commissioner of Land Administration was directed to be implemented by a learned Single Judge of this Court in W.P. No. 8751 of 1998 dated 31.3.1998, and as the said order has attained finality, we see no reason now to examine the validity or otherwise of the order of the Chief Commissioner of Land Administration in directing alienation of the extent of Acs.0.21 cents of land in favour of the 1<sup>st</sup> respondent-writ petitioner.

This Court, in proceedings under Article 226 of the Constitution of India, would not take upon itself the task of determining the market value, or to prescribe the relevant date for determining the market value. Neither the Chief Commissioner of Land Administration in his order dated 18.4.1996, nor the learned Single Judge in his order in W.P. No. 8751 of 1998 dated 31.3.1998, have directed that the market value should be fixed with reference to any particular date. By the order in W.P.No.8751 of 1998 dated 31.03.1998, the District Collector was directed to fix the market value based not only the report of the Mandal Revenue Officer dated 27.8.1996, but also on the basis of such other material as the District Collector may consider appropriate to rely upon.

The fact that there has been considerable delay in finalizing the market rate of the land would not justify this Court taking upon itself the task of fixing the market value of the land as on a particular date, as both the orders of the Chief Commissioner of

Land Administration and that of the learned Single Judge in W.P. 8751 of 1998 dated 31.3.1998 required the District Collector only to fix the market value and not with reference to any particular date.

The learned Government Pleader for Assignment has placed before us a copy of the proceedings dated 4.12.2015 whereby the Government decided to accord permission to the District Collector to take necessary action for assignment of Acs. 0.21 cents of land in Survey No. 287 on the market value as proposed by the District Collector. The District Collector has fixed the market value of the land as on 8.10.2015. As the District Collector has now taken a decision to fix the market value, by his proceedings dated 8.10.2015, suffice it to direct the appellants herein to collect the amount, as determined by the District Collector, from the 1<sup>st</sup> respondent-writ petitioner for alienation of the subject land in his favour in terms of the earlier orders of the Chief Commissioner of Land Administration, and that of the learned Single Judge in his order in W.P. No.8751 of 1998 dated 31.3.1998.

The order of the learned Single Judge is modified accordingly, and the Writ Appeal is disposed of. Suffice it to make it clear that the District Collector shall intimate the 1<sup>st</sup> respondent-writ petitioner, of the market value that is required to be paid by him, within three weeks from the date of receipt of a copy of this order. In case the 1<sup>st</sup> respondent-writ petitioner makes payment, within three months from the date of receipt of the District Collector's order, the subject land shall be alienated in his favour. Needless to state that, in case, payment as directed

hereinabove is not made by the 1<sup>st</sup> respondent-writ petitioner within the time stipulated herein above, it would then be open to the appellants to put the subject land to such use as they may consider it appropriate.

Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

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**(RAMESH RANGANATHAN, ACJ)**

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**(ABHINAND KUMAR SHAVILI, J)**

13<sup>th</sup> November, 2017

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Date: 13.11.2017

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