

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.21139 of 2004
and
W.M.P.No.25507 of 2004

1.Selvaraj @ Pothi Reddiar
2.S.Rajan
3.S.Pothi Reddy ... Petitioners

Vs

1.Commissioner, Land Reforms
Ezhilagam, Chepauk
Chennai 5.
2.Assistant Commissioner
Land Reforms,
Tirunelveli. ... Respondents

PRAYER : Writ Petition under Article 226 of the Constitution of India, numbered, on being transferred from the Tamil Nadu Land Reforms Special Appellate Tribunal, Chennai, praying to pass an order allowing the revision and thereby setting aside the order in A1, MR.I 18S/0PM dated Nil, which is confirmed by the Land Commissioner, Chepauk, in Ref.D1/R.P.9/200 (L.Ref.) dated 26.12.2000.

For Petitioner :Mr.A.R.Nexon

For Respondents:Mr.D.Raja

Additional Government Pleader

सत्यमेव जयते
O R D E R

This writ petition has been filed challenging the order passed by the land Commissioner, first respondent in and by his proceedings in Ref.D1/R.P.9/2000, dated 26.12.2000 .

2. Challenging the order passed by the second respondent, the petitioner has filed a revision petition before the Tamil Nadu Land Reforms Special Appellate Tribunal, Chennai. After abolition of the above Tribunal, the revision has been transferred to this Court and numbered as writ petition.

3. The facts leading to file the revision petition is that, a land reforms proceedings has been initiated against the petitioner under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961 (herein after called "Act ") . The surplus of each of the petitioners were fixed separately and a

final settlement under Section 12 of the Act was also published on various dates. Challenging the final statement, the petitioners have filed a revision petition before the Land Commissioner, which was dismissed earlier. Challenging the said order passed by the Land Commissioner, the petitioners have filed Revision Petitions before the Tamil Nadu Land Reforms Special Appellate Tribunal and the Special Appellate Tribunal by an order dated 18.02.1994 set aside the final statement and directed the authorities to publish a common final statement covering all the holdings of the petitioners. As per the directions of the Special Appellate Tribunal, final statement under Section 12 of the Act was published in the Gazette on 21.12.1994. Thereafter, a notification under Section 18(1) was also published on 08.02.1995. Challenging the above notification under Section 18(1), one A.S.V.S.Rajasekaran, who has purchased the land from the petitioner filed a revision before the Land Commissioner. In the above Revision, the Land Commissioner passed an order that an extent of 54.20 acres, which were declared as surplus earlier was again notified as surplus. The Land Commissioner has also passed an order directing the Assistant Commissioner, Land Reforms, Tirunelveli to cause necessary verification and pass suitable orders. Based on the above order, the Assistant Commissioner has conducted enquiry and notice was also issued to all the petitioners. One S.S.Rajan, who is the second petitioner in the Revision, appeared for enquiry on behalf of the petitioners and has given a statement to the fact that all the lands owned by the family members were taken into account, surplus notified and there is no other land omitted to be included and therefore, no alternate lands are available for being declared as surplus. He has also requested the Assistant Commissioner to delete the said extent of 52.77 acres of land, which was already declared as surplus. Accordingly, the Assistant Commissioner passed an order to delete the said 52.77 acres which was already declared as surplus and again included in the holdings inadvertently. Challenging the above order, the petitioners have preferred a Revision before the Land Commissioner. The Land commissioner, after hearing the parties has passed an order dismissing the revision holding that the petitioner has not filed any revision against the order passed by the subsequent notification issued under Section 18 of the Act and the examination of records shows that an extent of 54.20 acres already notified as surplus under the Principle Act from the land owner was again included in his holding and declared as surplus under the Amendment Act. Now challenging the above order, the present revision has been filed before the Tribunal. After abolishment of Tribunal, it was transferred to this Court and numbered as Writ Petition.

4. Mr. A.R.Nixon, learned counsel appearing for the petitioner would submit that while conducting enquiry, the Assistant Commissioner did not issue any notice to the

petitioners and one of the petitioners alone appeared and without hearing them, the order has been passed on violation of Natural Justice. Apart from that, he has also submitted that, as per Section 54 of the Act, the petitioners are entitled for compensation. But, so far, the petitioners were not given any compensation and the petitioners may be permitted to take necessary application for getting compensation .

5. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that based on the order passed by the Land Commissioner, the Assistant Commissioner conducted enquiry and the notice was also issued to all the petitioners and on behalf of the petitioners, S.S.Rajan, who is son and brothers of the other petitioners appeared and raised his objection. After considering the objection, the impugned order has been passed on merits.

6. I have considered the rival submissions and perused the materials available on record.

7. The main contention of the learned counsel appearing for the petitioners is that while conducting enquiry, the Assistant commissioner did not give any notice and their objections was not considered. Whereas , on perusal of the records , it shows that on behalf of the petitioners, one of the petitioners S.Rajan, appeared for enquiry and also submit his objections on behalf of the other petitioners. After considering his objection, the Assistant Commissioner found that an extent of 54.20 acres already notified as a surplus has been wrongly included in the subsequent notification. Against the said order, the petitioners have not filed the revision before the Land Commissioner. On a Revision filed by a subsequent purchaser, the land Commissioner, after considering all the materials and examination on records, satisfied that land has been wrongly included and hence dismissed the revision. In the said circumstances, I find no merit in the contention of the petitioners. If at all the petitioners have any grievance for non-payment of the compensation, it is always open to them to file necessary application as per law, and any such application is filed, the authorities are directed to consider the same and pass suitable orders on merits.

8. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

mrp

To

1.Commissioner, Land Reforms
Ezhilagam, Chepauk
Chennai 5.

2.Assistant Commissioner
Land Reforms,
Tirunelveli.

+ 1 cc to Mr. A.R. Nixon, Advocate Sr.64023

+ 1 cc to Mr. the Government Pleader Sr.64134

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RSI (CO)
EU(01/11/2018)



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