



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2018

WEB COPY

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.628 of 2016,
CMP.No.8222 of 2016

1.The Principal Commissioner and
Commissioner of Land Reforms,
Chepauk, Chennai -5.

2.The Competent Authority,
(Urban Land Ceiling) Tirunelveli.

... Appellants

-Vs-

1.S.Vijaya
2.S.Subbulakshmi
3.S.Murugan

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.8793 of 2004 dated 07.06.2011.

This WP is for the issuance of Writ of Certiorari to set aside the order of the 1st Respondent in J1/27802/95 dated 30.12.1995.

For Appellants : Mrs.A.Sri Jayanthi
Special Govt. Pleader

For Respondents: Mr.A.Sivaji

J U D G M E N T

[Judgment of the Court was made by
K.K. SASIDHARAN, J.]

The competent authority under the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978 dropped the proceedings against the adjacent land owned by the two brothers of the husband of the first respondent on the ground that they have



been undertaking agricultural operations. However, the land owned by another brother, the predecessor-in-interest of the respondents was declared as excess, notwithstanding the agricultural operation undertaken by him. The learned single Judge quashed the order dated 30 December 1995 on the file of the Principal Commissioner and Commissioner of Land Reforms, Chennai and declared that the subject land would not attract the provisions of Tamil Nadu Urban Land (Ceiling and Regulation) Act. The order is under challenge at the instance of the appellants.

2. We have heard the learned counsel for the parties.

3. The land, which is the subject matter of this intra court appeal originally belonged to Thiru.S.Seetharama Reddiar. The land was divided among the three children of Thiru.S.Seetharama Reddiar. The husband of the first respondent was given 1/3rd share, other two children of Thiru.S.Seetharama Reddiar viz., Alwar Reddiyar and S.Muthukrishnan were given the adjacent land. Thiru.S.Seetharama Reddiar cultivated the land continuously. The cultivation was proved by the Adangal extracts and the agricultural income tax paid by the land owner originally and later by his children. Though the predecessor-in-interest of the respondents produced string of documents to prove the cultivation undertaken by their predecessor-in-interest, the same was not accepted by the competent authority. The claim was rejected. The appeal filed against the order passed under Section 33 of the Tamil Nadu Urban Land (Ceiling and Regulation) Act was dismissed by the Commissioner and Commissioner of Land Reforms. The said order was challenged in the writ petition in W.P.No.8793 of 2004.

4. The Writ Court allowed the writ petition in W.P.No.8793 of 2004 on the ground that Adangal extracts produced by the respondents clearly established the agricultural operation undertaken by their predecessor-in-interest.

5. Since the appellants have taken up a contention that the Adangal extracts would not prove that the predecessor-in-interest of the respondents cultivated the land, we directed the appellants to produce the entire file and the Adangal Extracts. The appellants took several adjournments for producing the file besides the Adangal Extracts to prove that the land was not used for cultivation.

6. The learned Special Government Pleader by producing written instructions given by the second appellant submitted that the file is missing. The Adangal Extracts are also not available. According to the appellants, the records were destroyed long back.



7. The statutory proceedings were pending before various authorities at least from 1987 onwards. We are not in a position to understand as to what made the appellants to destroy the file and the connected records, pending adjudication of the issue. The Adangal Extracts are the primary documents to prove as to whether the land owners have undertaken agricultural operations during the period in question. The respondents have produced string of documents in support of their contention that they have been cultivating the land along with the adjacent land owners. Therefore, the primary responsibility is on the part of the appellants to prove that no such cultivation was undertaken by the respondents. It was only to enable the appellants to prove the material fact, we have adjourned the matter time and again. Now that the appellants have submitted that they have no documents to prove their contention that there was no cultivation at the instance of the respondents, the litigation must be given a quietus.

8. The learned single Judge considered the entire materials including the order passed in the case of the adjacent land owners, who are close relatives of the respondents and allowed the writ petition. There are no contra materials produced before us to take a different view in the matter. We are therefore of the view that the intra court appeal deserves to be dismissed.

9. In the upshot, we dismiss the intra court appeal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

svki

+lcc to Mr.A.Sivaji, Advocate SR.No.16749
+lcc to Government Pleader SR.No.17139

W.A No.628 of 2016

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