



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2019

CORAM

The Honourable Mr. Justice M.M. SUNDRESH
and

The Honourable Mr. Justice RMT. TEEKAA RAMAN

W.P.No.6264 of 2001 and
WMP.Nos. 8847 and 8848 of 2001

Tuticorin Multipurpose
Social Service Society
rep. by its Secretary

... Petitioner

.. Vs ..

1. The Secretary to Government
Revenue Department
Fort St. George, Chennai 9.

2. Assistant Commissioner
(Land Reforms) Tirunelveli.

3. The Tamil Nadu Land Reforms
Special Appellate Tribunal
Chennai 4.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the order passed in G.O.439 Revenue (Land Reforms-2-3) Department, dated 9-8-1999 passed by the 1st Respondent and the consequential order in S.R.P.No.19/2000 dated 14.12.2000 passed by the 3rd Respondent and quash the same and for a direction directing the 1st Respondent to grant exemption for the lands of the petitioner under Section 27 B of Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Act of 1961 Tamil Nadu Act LVIII of 1961 as amended by the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amended Act 1987 (Tamil Nadu Act No.290/1987).

For Petitioner : Mr.Father Xavier Arul Raj
Senior Counsel
for Mr. J.Antony Jesus

For Respondents: Mr.Akbar Ali (R1 and R2)
Government Advocate
R3- Tribunal
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C O M M O N O R D E R

[The Order of the Court was made by M.M.SUNDRESH,J.]

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This Writ Petition has been filed seeking to call for the records relating to the order passed in G.O.439 Revenue (Land Reforms-2-3) Department, dated 9-8-1999 passed by the first Respondent and the consequential order in S.R.P.No.19/2000 dated 14.12.2000 passed by the third Respondent and quash the same and for a direction to the first respondent to grant exemption for the lands of the petitioner under Section 27 B of Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Act of 1961 Tamil Nadu Act LVIII of 1961 as amended by the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amended Act 1987 (Tamil Nadu Act No.290/1987).

2. The petitioner Society was registered under the Societies Registration Act 1860 on 11.05.1972. The object of the Society is to provide Charitable and social services within the territory of Tuticorin Diocese, irrespective of caste and creed. The petitioner is running the programmees such as Balvadis, Mercy Homes for Destitutes and Children, Cottage Programmes for Children, A Programme for street Children, financial assistance to poor children, summer coaching for students etc,. The following institutions are planned to be established in the said lands, along with other regular charitable activities.

- i) Agricultural School with model farm.
- ii) Orphanage with cottages for real orphans.
- iii) Technical training school for women-tailoring, typewriting, basket making and other crafts.
- iv) Diary farming training centre, goat rearing, poultry farming etc.,
- v) Hostel for the trainees.
- vi) Rahabilitation centre for leprosy patients, physically handicapped persons with dispensary.

3. The petitioner purchased lands in the year 1986 from 94 vendors out of which 410.68 acres are dry lands and 3.63 acres are wet lands. the petitioner made an application before the Government viz., Respondent No. 2 seeking to invoke Section 37B of the Tamil Nadu Land Reforms Act, 1961. Against the exemption sought for by the petitioner, The Assistant Commissioner of Land Reforms, Tiruppur in his proceedings dated 05.09.1990 has made the following recommendations:

" I inspected the lands on 13.07.90 and 23.07.90 and 23.07.90 and enquired the Village Administrative Officer, Srimoolakari. The lands are situated in a compact block. An extent of 166.81 acres



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is rocky and gravelly and no vegetation has come up. Cultivation is not possible in the dry fields as there are gravels on the surface and rock beneath the surface soil. This extent has to be excluded under Section 3 (22) of the Act. The remaining dry lands (viz.) 243.24 acres could only be utilised for non-agricultural purposes. The wet lands are cultivable lands and they are to be utilised for agricultural school with model farms. There are no valueable buildings or structures except the following:

Survey No.	State on ground
538/2	Unused square well
617/2	Sathankoil and
round well	
635/28	Well with pumpset
651	Square well with
	pumpset

The vendors are not attracted by the provisions of the land ceiling laws. There are no encumbrance also in the said lands. "

4. The first respondent vide impugned order dated 09.08.1999 had rejected the request made by the petitioner on two grounds viz., (i) The petitioner has not obtained relevant permission to run either educational institutions or hospitals and it has not obtained or any permission for establishment and (ii) The petitioner society cannot be considered as public trust as it is only a registered society.

5. Challenging the same, the petitioner approached the Tamil Nadu Land Reforms Special Appellate Tribunal. The learned Tribunal vide order dated 14.12.2000 has upheld the order passed by the first respondent. Challenging the order passed by the first respondent dated 09.08.1999 and the consequential order passed by the third respondent dated 14.02.2000, the present Writ Petition has been filed.

6. The learned Senior Counsel appearing for the petitioner submitted that the Assistant Commissioner has not taken into consideration the application filed under Section 37B of the Tamil Nadu Land Reforms Act, 1961 that it has been filed by way of abundant caution in as much as the report has been sought for the same ought to have been looked into and thereafter the Government would have come to the conclusion that the larger extent of lands are not cultivable and therefore, would not fall within the purview of Section 3(22)



of the Act. The learned Senior Counsel made reliance to Amendment of Rules 62 to 66 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules 1962 to submit that Government has got sufficient powers to exercise Power under Section 36B even after the sale is made. Therefore, the aforesaid rules is applicable to the case of the petitioner in tune with Section 33 of the Act. The learned Senior Counsel further submitted that the report of the Assistant Commissioner ought to be considered as the report says that the petitioner can be given a period of five years as mandatory under the Act. The Tribunal also not considered this aspect while going into entire adjudication.

7. The learned Government Advocate appearing for the respondents submitted that it is the petitioner who made the application and the Rules of the Government are only perspective in nature. Therefore the Writ Petition ought to be dismissed.

8. We are not inclined to embark upon the factual adjudication of this Writ Petition. However, we find force in the submission made by the learned Senior Counsel for the petitioner that having called for the report from the Assistant Commissioner report, it has been eschewed. The report has been made by investigating over the land for which the exemption has been sought for. Secondly, even on the question of time having not sought for, report ought to have been looked into. Thirdly there is no bar in law to consider the case of the petitioner in view of the new amendment. Further the petitioner Society said to have engaged itself in the non formal education and the said fact has not been considered by the first and the third respondents before passing orders.

9. In such view of the matter we are inclined to set aside the order passed by the first respondent dated 09.08.1999 and the consequential order passed by the third respondent on 14.12.2000

10. Accordingly these orders are set aside and the matter stands remitted back to the Special Commissioner, Commissionerate of Land Reforms, Ezhilagam Chepauk, Chennai-5. It is needless to state that the aforesaid authority shall issue fresh notice to the petitioner and thereafter take decision in the light of the discussions made above and pass appropriate orders within a period for twelve weeks from the date of receipt of a copy of this order and the petitioner is also at liberty to approach the said authority and file additional documents if so required and the authority concerned shall also give personal hearing to the petitioner. In such view of the matter we leave the other issues open.



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11. In the result, this Writ Petition is allowed as indicated above. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government
Revenue Department
Fort St. George, Chennai 9.
- 2.The Special Commissioner,
Commissionerate of Land Reforms,
Ezhilagam, Chepauk, Chennai-5.
- 3.Assistant Commissioner
(Land Reforms) Tirunelveli.
- 4.The Tamil Nadu Land Reforms
Special Appellate Tribunal
Chennai 4.

+1cc to Mr. J.Antony Jesus, Advocate SR.97139
+1cc to the Government Pleader SR.96542

W.P.No.6264 of 2001

PA(CO)
CB(06/01/2020)