

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 48824 of 2006

and

M.P. 2 of 2006

Muthoot Alternate Energy

Resources (P) Ltd.,

rep. by its Authorised Representative,

G.Jeyachandran

Muthoot Buildings,

Ponneri Road,

Trivandrum, Kerala State.

.... Petitioner

Vs

1. The Appellate Authority cum
District Revenue Officer,
(Land Tribunal),
Chennai-5.

2. The Assistant Commissioner,
(Land Reforms),
Tirunelveli.

.... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records on the file of 1st respondent in proceedings No.LTCMA.7/2000, dated 10.11.2006 in confirming the order of the 2nd respondent in his proceedings Roc. A3/177/96, dated 11.02.2005 and quash the same as illegal, incompetent.

For Petitioner : Mr.V.Lakshminarayanan

For Respondents : Mr.J.Ramesh,
Addl. Govt. Pleader

O R D E R

This Writ Petition has been filed challenging the impugned order of the 1st respondent dated 10.11.2006 confirming the order of 2nd respondent dated 11.02.2005 and quash the same as illegal and incompetent.

2. The case of the petitioner is that he was a vigilance officer of the petitioner company and he is holding lands to an

extent of 68.66 acres in various places like Perungudi, Thanakarkulam, Azhaganeri, Sadayaneri and Arulvaimozhi. The lands in that area is rocky and unfit for any agricultural purpose. The lands were purchased by a Director of the petitioner viz., Mr. Thomas Muthoot with an intention to erect wind energy generators, because the area being windprone throughout the year and the said places were identified by the Government of Tamil Nadu for the purpose of active generation of wind harvesting. The petitioner further averred that the surface soil and the sub-soil is formed by the process of corrosion of huge rocks, which present in the surface from time immemorial. Hence, it contains minerals, which are not fertile and not suitable for any kind of agricultural activities and the power generated by the petitioner is sold to the Tamil Nadu Electricity Board after entering into the power purchase agreement with the latter. Further, the State and Central Government authorities have categorically held that the disputed land is not fit for agricultural activities. Accordingly, the petitioner has entered into the agreement with the Tamil Nadu Electricity Board for erecting windmill in the particular locality. While being so, the 2nd respondent land reforms authority has initiated proceedings under the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Act, 1961 (hereinafter called as 'Act') amended in the year 1972 and thereafter, the authorities conducted enquiry and it has concluded that the property is purchased in the name of individual, and not transferred in the name of the petitioner company. The said order was approved by the 1st respondent vide its order dated 10.11.2006. Against which, the present Writ Petition has been filed by the petitioner.

3. The learned counsel appearing for the petitioner would submit that the windmill was erected based on the approval of the respective Government authorities viz., State and Central authorities (IREDA & T.N.E.B.). However, those records were not properly perused by the 1st respondent and mechanically arrived at a conclusion as if the property is owned by the individual and the disputed lands is not in the name of the petitioner company. Further, though the respondents have considered that the windmill was erected by the petitioner, they did not consider the disputed lands not fit for cultivation, if the land is not fit for cultivation, resorting Land Reforms Act is not sustainable. Hence, this Court may remand the matter back to the 2nd respondent for fresh consideration and to pass appropriate orders after perusal of the State and Central Government orders.

4. The learned Addl. Government Pleader has fairly conceded that though the State and Central Government authorities have approved the said lands are not fit for cultivation, the same was not produced before the authorities. Hence, this Court may remand the matter back for fresh consideration.

5. So, in view of the above, the consent view expressed by the learned counsel appearing for the petitioner as well as the learned Addl. Government Pleader appearing for the State, I am inclined to set aside the impugned order of the 1st respondent passed in Proceedings No.LTCMA. 7/2000, dated 10.11.2006 and to remand the matter back to the 2nd respondent Assistant Commissioner of Land Reforms, Tirunelveli for fresh consideration. However, the liberty is granted to the petitioner to produce all the relevant documents enabling the 2nd respondent to pass appropriate orders. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

rpp

To

1. The Appellate Authority cum
District Revenue Officer,
(Land Tribunal),
Chennai-5.
2. The Assistant Commissioner,
(Land Reforms),
Tirunelveli.

+1cc to Mr.V.Raghavachari, Advocate SR.No.63754

+1cc to Government Pleader SR.No.63847

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M.P. 2 of 2006

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PA (CO)
GMY (28/08/2019)