

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.3716 of 2005

V.Lakshminarasimhan

...Petitioner

Vs.

1.The District Revenue Officer,
(Land Tribunal)
Chennai - 600 005.

2. The Authorized Officer and
Assistant Commissioner (Land Reforms)
Erode.

... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to call for the records in M.R.1/94V/17-70/78 dated 15.09.2001 of the 2nd respondent as confirmed by the order in LTCMA No. 14/2001 dated 26.05.2004 of the 1st respondent and quash the order dated 26.05.2004 of the 1st respondent.

For Petitioner : M/s.Maliga Srinivasan
For Respondents: Mr.J.Ramesh, AGP.

O R D E R

The petitioner has filed this Writ Petition, to issue a writ of Certiorari, to call for the records in M.R.1/94V/17-70/78 dated 15.09.2001 of the 2nd respondent as confirmed by the order in LTCMA No. 14/2001 dated 26.05.2004 of the 1st respondent and quash the order dated 26.05.2004 of the 1st respondent.

2. The case of the petitioner is that a proceedings was initiated under Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 17/1970, (in short 'Act') against the petitioner's family. In the case of Tmt.Balakrishnammal, who is the grandmother an extent of 24.02 ordinary acres equivalent to 8.270 standard acres of land was declared surplus by notification dated 9th March, 1983. On 22.04.1970 the 1st petitioner and his mother had executed a document for exchanging certain properties belonging to them. The transaction of

exchange had taken place much before the issue of the notification declaring surplus land. Notwithstanding that, the Deed of Exchange was entered between the 1st petitioner and his mother long before the declaration of surplus land. The Assistant Commissioner/2nd respondent herein has passed an order dated 18.01.1982, stating that there was a mistake in the notification computing the surplus land available in the case of the petitioner.

3. Challenging the said order, the 1st petitioner and his mother filed a Revision Petition before the Land Commissioner at Madras. The Land Commissioner by his order dated 18.06.1983 held that invoking Section 15 of the Act to include the omitted lands is not sustainable in law and hence the 2nd respondent has to seek direction from the Land Commissioner under Section 18-A of the Act. Accordingly, the Land Commissioner issued a notice dated 25.01.1990, directing the 2nd respondent to include an extent of 9.37 acres of land in the holdings of the petitioner and to recalculate the surplus land and amend the final statement accordingly.

4. Against the aforesaid direction issued by the Land Commissioner, the 2nd respondent has filed a Writ petition in W.P. No. 2226 of 1990 before this Court. The said Writ Petition was transferred to the Tamil Nadu Land Reforms Special Tribunal. The Tribunal by its judgment dated 16.10.1995 set aside the order of the Land Commissioner as erroneous and directed the Commissioner to initiate fresh proceedings after complying with the provisions of law. As per the order, the 2nd respondent re-opened the cases involving transactions effected between the date of commencement of the Act and the notified date, irrespective of the fact that whether such transaction had been effected bonafide or not. Action under Section 22 of the Amended Act 11/96 was initiated by the 2nd respondent. Accordingly, notices were issued to the land owner and the transferees. After such enquiry, an order has been passed on 15.09.01, declaring the transaction effected through document No.1529 of 1970 dated 22.04.1970, as void under Section 22 of the Act and ordered to include the extent of land involved in the transaction in the holdings of the petitioner and his mother. Challenging which, the land owner and his mother filed an appeal before the Land Tribunal in LTCMA No.14/01 and the Tribunal by its order dated 26.05.2004, has uphold the order of the 2nd respondent and dismissed the appeal as devoid of merits. Against the said order of the Land Tribunal, the Writ Petition has been filed by the petitioner.

5. The learned Additional Government Pleader appearing for the respondent did not dispute the submissions made by the learned counsel appearing for the petitioner.

6. It is submitted that since the power conferred on the authorized officers u/s 22(2) which is inserted by the amendment brought in by Act 11 of 1996 is nullifying all the orders passed from the commencement of the acts in 1961 upto 1996. Several Writ Petitions challenging the validity of Section 22(2) of the Act inserted by amendment in Act 11 of 1996 were filed before this Court. However, giving the retrospective effect to the new provision for about 35 years was held to be valid by the learned single Judge of this Court by judgment dated 13.03.2009 in W.P.No.19088 and 17115 of 1997 and etc. The said judgment of the Learned Single Judge is challenged in W.A.Nos.1215, 1343 and 1436 of 2009.

7. In view of the writ appeal pending before this Court which was challenged by the aggrieved parties, the present writ petition stands disposed of and liberty is granted to the petitioner to file a fresh application after decision of the Division Bench order and the interim order granted by this Court shall continue till the disposal of W.A.Nos.1215, 1343 and 1436 of 2009 pending before the division Bench. No costs.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

To

1. The District Revenue Officer,
(Land Tribunal)
Chennai - 600 005.

2. The Authorized Officer and
Assistant Commissioner (Land Reforms)
Erode.

+1 CC to M/s. Mallika Srinivasan, Advocate sr 64379

+1 CC to The Govt. Pleader sr 64663.

W.P.No.3716 of 2005

GP(CO)
SP(09/12/2019)