

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.37707 of 2005
and MP.Nos.40363 of 2005

1.N.Lakshmi Ammal
2.V.N.Raghupathy

... Petitioners

vs.

1. The Assistant Commissioner,
Land Reforms,
Villupuram.
2. The District Revenue Officer,
(Land Tribunal),
Chepauk, Chennai-5.

... 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 of the 2nd respondent in LTCMA.Nos.1 & 2 of 2002 dated 06.11.2003 confirming the order of the 1st respondent dated 04.12.2001 in A1/MRI/L.14/MKM/17.70 and quash the same.

For Petitioner : Mr.T.R.Rajagopal
Senior Counsel,
for M/s.R.Bharath Kumar

For Respondents: Mr.D.Raghu
Government Advocate

O R D E R

This writ petition has been filed for issuance of a Writ of Certiorari, to call for the records of the 2nd respondent in LTCMA.Nos.1 and 2 of 2002 dated 06.11.2003 confirming the order of the 1st respondent dated 04.12.2001 in A1/MRI/L.14/MKM/17.70 and quash the same.

2. The case of the petitioners is that the first petitioner is the mother of the second petitioner. The second petitioner submitted that his father owned agricultural lands in

Mamandur and Mayur Villages, Madhurandhagam Taluk, at the time of his death on 31.03.1968. The first petitioner owned lands to an extent of 12.71 acres ordinary acres in Adayalampattu Village, Poonamallee Taluk, Tiruvallur District, having acquired the same under two registered sale deeds dated 16.03.1957 and 02.04.1957. The second petitioner is the owner of an extent of 8.07 acres at Mamandur Village, having acquired the same under registered settlement deed from his grandfather dated 09.06.1962.

3. The Assistant Commissioner prepared a draft statement on 16.06.1976, clubbing all the properties together and issued a draft statement under section 10 of the Act under which it was stated that the petitioners are owning surplus lands to an extent of 9.51 ordinary acres, equivalent to 3.71 standard acres. Subsequently, the Assistant Commissioner suo motu issued a fresh draft statement on 25.11.1978 stating that the first petitioner and the second petitioner owned surplus lands to an extent of 2.82 standard acres.

4. The first petitioner has filed C.M.A.No.10 of 1979 before the Land Tribunal, Chepauk, questioning the correctness of the order of the Assistant Commissioner including an extent of 16.78 acres (4.20 standard acres) which was a brick kiln, in her holding. C.M.A.No.10 of 1979 was allowed and the extent of 16.78 acres (4.20 standard acres) was directed to be excluded, as the same was not agricultural land but a brick kiln. C.M.A.No.63 of 1979, filed by the State of Tamil Nadu, seeking inclusion of the extent of 8.07 acres (2.87 standard acres) which the petitioners have obtained under the settlement dated 09.06.1962 from the second petitioner's grandfather V.Duraisamy Naidu, was dismissed.

5. Against the judgment in C.M.A.No.10 of 1979 and C.M.A.No.63 of 1979, the State filed two Civil Revision Petitions in C.R.P.Nos.1769 of 1991 and 1770 of 1991. Those Civil Revision Petitions later came to be transferred to the file of the Special Appellate Tribunal, Madras and were re-numbered as Tr.P.No.680 & 681 of 1991. The Authorised Officer, Land Reforms, Villupuram, issued a fresh order under Section 10 (5) of the Act on 04.12.2001 holding that the family held surplus lands to an extent of 1.49 standard acres.

6. Against the said order of the Authorised Officer, Land Reforms, Villupuram, the petitioners have filed C.M.A.Nos.1 and 2 of 2002. On going through the contents of the common order in L.T.C.M.A.Nos.1 & 2 of 2002, dated 06.11.2003, the petitioners came to know that the said appeals have been disposed of against them, and the 2nd respondent had confirmed the draft order of the 1st respondent under Section 10(5) dated 04.12.2001.

Aggrieved by the said order, the present writ petition is filed.

7. The learned counsel for the petitioner would submit that the 2nd respondent has seriously erred in including the private individual property of the 2nd petitioner and the sreedhana properties of the 1st petitioner while computing the extent of land owned by the family. The learned counsel further submitted that in pursuance of the impugned order of the 2nd respondent dated 06.11.2003, the 1st respondent had taken further proceedings under Section 18 of the Act and has issued a notification dated 27.09.2005 stating that it would take possession of the alleged excess extent of 1.49 standard acres in Mayur Village.

8. The learned counsel for the respondents would refute the contentions raised by the learned counsel for the petitioner and justified the impugned order.

9. A perusal of the records clearly shows that under Section 3(14) of the Act, 'Family' is defined. The Authorities, based upon the said provision, treated the 1st and 2nd petitioner as a "Family" and proceeded to decide the issues involved in this case. Sridhana land means any land held on the date of the commencement of the Act by the female member of the 'Family' in her own name. Sridhana land is referred only to the land held by a female on the date of commencement of the Act and not to the lands inherited by her or acquired by her as a bequest at any subsequent point of time. Section 5(4)(a) of the Act clearly spells out that the female members concerned may hold, in addition to the extent of the land which the family is entitled to hold under Sub-section 1, Sridhana land not exceeding 10 standard Acres. Tmt.Lakshmi Ammal acquired about 12.02 ordinary acres of land equivalent to 4.04 standard acres in Adayalampattu Village under registered sale deeds dated 16.03.1957 and 02.04.1957. The very same issue was decided by the Hon'ble Apex Court (M.Ramakrishnan vs. State of Madras). The Hon'ble Supreme Court held that the expression 'sreedhana land' used in section 5(4)(a) has been given a restricted meaning by section 3(42) of the Act which defines it as any land held on the date of the commencement of the Act by any female member of a family in her own name. From a reading of the definition of 'sreedhana land' in section 3(42) and the provisions of section 5(4), it is clear that the State Legislature under section 5(4) refers only to the sreedhana property held by a female on the date of the commencement of the Act and not to property acquired by her thereafter.

10. In view of the above decision, the writ petition stands allowed and the impugned order passed by the 2nd respondent in LTCMA.Nos.1 & 2 of 2002 dated 06.11.2003

confirming the order of the 1st respondent dated 04.12.2001 in A1/MRI/L.14/MKM/17.70 is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

ssb

To

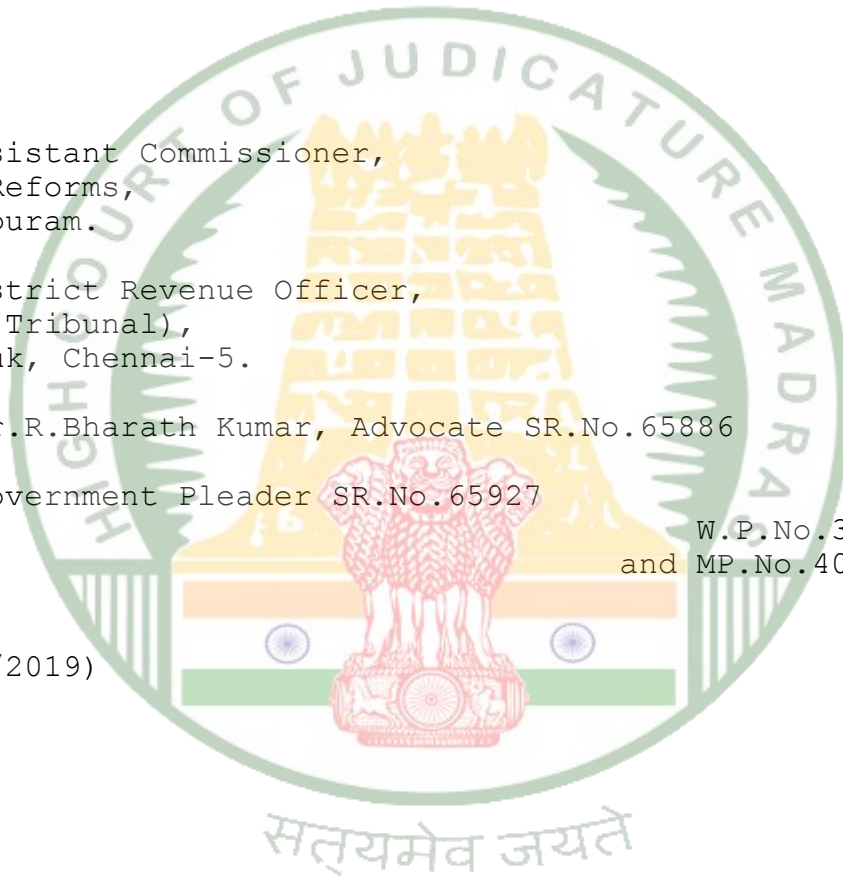
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+1cc to Mr.R.Bharath Kumar, Advocate SR.No.65886

+1cc to Government Pleader SR.No.65927

W.P.No.3770 of 2005
and MP.No.40363 of 2005

RJI (CO)
GMY (26/08/2019)



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