



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.07.2019

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.10079 of 2019
and
W.M.P. (MD) No.7845 of 2019

K.Alagu

... Petitioner

Vs.

1.The Director,
Revenue Administration and Disaster Management
Ezhilagam Building 3rd Floor,
Kamarajar Salai
Chepauk, Chennai.

2.The District Collector
Sivagangai District, Sivagangai.

3.The Tahsildar,
Thiruppathur Taluk
Sivagangai District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 3rd respondent on 31.01.2019 and quash the same on the ground that the same is arbitrary, illegal and without any legal basis and consequently directing the 3rd respondent to issue the small/marginal farmer certificate to the petitioner.

For Petitioner :Mr.S.Sadeshkumar

For Respondents :Mr.V.Anand
Government Advocate

ORDER

Challenging the impugned order passed by the third respondent dated 31.01.2019 and for a consequential direction to the 3rd respondent to issue the small/marginal farmer certificate to the petitioner, the writ petition has been filed.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.



3. The petitioner, in order to get loan by treating him as either marginal farmer or small farmer, applied to the respondent department. However, the same has been rejected by impugned order dated 31.01.2019 of the third respondent. Challenging the same, the present writ petition has been filed.

4. The learned counsel for the petitioner submits that, as per the guidelines issued in this regard, a person, who is having five acres, less than five acres of the land totally, would be eligible to be considered as a small farmer. Accordingly, since the petitioner is having 71.6 cents of wet land and 3.94 acres of dry land and if both are totalled, it will be less than five acres and therefore, he should have been declared as a small farmer, the learned counsel contended.

5. However, the third respondent, by multiplying the wet land of 71.6 cents x 2 and making it as one acre 43 cents, has come to the conclusion that, the petitioner is having the total extent of 5.37 acres of land. Therefore, it is beyond the maximum ceiling of five acres to declare the petitioner as small farmer and therefore, the impugned order, rejecting the claim of the petitioner, has been made, which according to the learned counsel for the petitioner, is palpably wrong and therefore, he seeks indulgence of this Court to interfere with the said impugned order.

6. I have heard the learned Government Advocate, who would submit that, as per the classification made, a person, who is having land up to one Hectare will be considered as marginal farmer and between 1 to 2 Hectares would be small farmers, 2 to 4 Hectares will be medium farmer and above four Hectares will be big farmers. As far as the petitioner is concerned, since he is having the wet land, the same has to be multiplied by two and that is the reason why, it has been multiplied by two and made 71.63 wet lands into one acre 43 cents and that is how the total area has been calculated, which crosses the five acres. Hence, the application of the petitioner has been rejected, it is contended.

7. I have heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and I have also perused the materials placed before this Court.

8. I have gone through the guidelines in this regard issued by the Government including Appendix C, which has been produced by the Government Advocate and the relevant portion of the same reads thus:

"Keeping all these arguments into consideration, in this study farmers (heads of the household) were classified into marginal, small, medium and big farmers based on the size of their land holding. They are defined as follows:



Marginal farmers - upto 1 Hectares
Small farmers - 1 to 2 Hectares
Medium farmers - 2 to 4 Hectares
Big farmers - Above 4 Hectares

WEB COPY

In order to treat dry lands on par with wet lands, the dry lands were weighed by 0.5 Hectare of wet land. This weight was based on the land value prevalent in most of the sample villages. The value of one hectare of dry land was nearly equal to the value of half acre of wet land (Refer Appendix - A.3 for landholding - wise distribution of sample farmers)"

9. According to the said table, a person, who is having lands between 1 to 2 Hectares, would be treated only as small farmer. It is also mentioned in the said guidelines that, the value of one Hectare of dry land was nearly equal to the value of $\frac{1}{2}$ acre of wet land. This has been referred in Appendix A-3. Here, in the case in hand, if at all the dry land has to be taken into account, 50% of the dry land can be taken and the same can be annexed along with the wet land and if total area of wet land as well as 50% of the dry land combined together crosses the limit of one Hectare or two Hectares, as the case may be, then only, the petitioner can be categorised as not entitled to claim the status of either marginal or small farmer. Here, in the case in hand, the petitioner is having only 71.6 cents of wet land and three acres and 94 cents of dry land and by reducing the area of the dry land of three acre and 94 cents, if both the dry land as well as the wet land is combined together, it would not come beyond five acres. Therefore, the petitioner is entitled to claim the status of small farmer and this is the prima facie view this Court can come to on seeing the guidelines issued in this regard as well as the availability of the land for the petitioner. In that view of the matter, the conclusion arrived at by the third respondent in passing the impugned order by making the 71.6 cents of wet land into one acre 43 cents by multiplying with two may not be justifiable and there is no plausible reason available for the third respondent to come to such a conclusion and based on such calculation, if the claim of the petitioner is rejected through the impugned order, the same is palpably wrong and therefore, interference of this Court is very much necessitated.

10. In that view of the matter, the impugned order is quashed, and the matter is remitted back to the respondents, especially, the third respondent for reconsideration and while reconsidering the same, the petitioner shall be given reasonable opportunity of being heard to put forth his case to establish that he can be treated either as a small farmer or marginal farmer and accordingly, final order shall be passed by the third respondent. The needful as indicated above, shall be done within a period of six weeks from the date of receipt of a copy of this order.



11. With the above observations and directions, the writ petition is disposed of. No costs. Consequently connected Miscellaneous Petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CrI.Side)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Director,
Revenue Administration and Disaster Management
Ezhilagam Building 3rd Floor,
Kamarajar Salai
Chepauk, Chennai.

2.The District Collector
Sivagangai District,
Sivagangai.

3.The Tahsildar,
Thiruppathur Taluk
Sivagangai District.

+1 CC to M/s.SPL GP (SR-73443[F] dated 04/07/2019)

+1 CC to M/s.S.SADES KUMAR, Advocate (SR-73322[F] dated 04/07/2019)

W.P.(MD)No.10079 of 2019
and

W.M.P.(MD) No.7845 of 2019
03.07.2019

RR

JMN(20.08.2019) 4P : 6C