IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order	Date of Pronouncing Order
13.08.2021	24.08.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.10799 of 2011
and
W.M.P.No.5233 of 2019

Pushpawathie Narendra
Liquidator,
Neikarapatty Dairies (Private) Limited,
(in voluntary liquidation)
No.141/3, GEO Colony,
Jagir Ammapalayam,
Salem - 636 302. ...Petitioner

-vs-

1. The Secretary,
   Revenue Department,
   Fort St. George,
   Chennai - 600 009.

2. The Assistant Commissioner,
   (Land Reforms)
   36 Barathi Ula Salai,
   Race Course Colony,
   Madurai - 625 002. ...Respondents

Prayer:- Writ of Certiorarified Mandamus, calling for the entire records relating to the Notification issued by the Government in G.O.Ms.No.1966, Revenue Department, dated 10.09.1981 under Section 18(1) of the Tamil Nadu Land Reforms(Fixation of Ceiling on Land)Act, 1961 and published in the Tamil Nadu Government Gazette No.21-A Part II – Section 1, Supplement dated 05.06.1996 and the order dated 23.11.2000 in SRP No.21 of 2000 of the Land Reforms Special Tribunal, Chennai and quash the same in so far as it relate to the determination of amount payable for the Land acquired from the petitioner herein and consequently direct the respondents herein to determine afresh under S.50 of the Act the amount payable to the petitioner herein for the lands acquired in terms the provisions of unamended Schedule III of the Tamil Nadu Land Reforms (Fixation of Ceiling of Land)Act, 1961 as it was in force at the time of publication of the notification in G.O.Msw.No.1286 Revenue dated 20.03.1973 under S.18(1) of the

Tamil Nadu Land Reforms (Fixation of Ceiling of Land)Act 1961 in Supplement to part III of the Tamil Nadu Governmnent Gazette No.12-(B) dated 28.03.1973 and pay the difference amount in compensation with statutory interest as provided under Law applicable upto 10 years w.e.f 11.05.1973 and equitable interest at the rate of 11 percent for the period beyond 10 years commencing from 11.05.1983 and upto the date of actual payment of difference in compensation to be redetermined by the 2nd respondent herein (PRAYER AMENDED VIDE ORDER DATED 28.06.2021 MADE IN WMP.5231/2019 IN WP.10799/2011 BY RSKJ)

For Petitioner	:	Mr.V.R.Rajasekaran
For Respondents	:	Mr.Richardson Wilson Government Advocate

O R D E R

This Writ Petition is filed to issue a writ of Certiorarified Mandamus to call for the entire records relating to the Notification issued by the Government in G.O.Ms.No.1966, Revenue Department, dated 10.09.1981 under Section 18(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 and published in the Tamil Nadu Government Gazette No.21-A Part II - Section 1, Supplement dated 05.06.1996 and the order dated 23.11.2000 in SRP No.21 of 2000 of the Land Reforms Special Tribunal, Chennai and quash the same in so far as it relate to the determination of amount payable for the Land acquired from the petitioner herein and consequently direct the respondents herein to determine afresh under Section 50 of the Act the amount payable to the petitioner herein for the lands acquired in terms the provisions of unamended Schedule III of the Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Act, 1961 as it was in force at the time of publication of the notification in G.O.Ms.No.1286 Revenue dated 20.03.1973 under Section 18(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Act 1961 in Supplement to part III of the Tamil Nadu Government Gazette No.12-(B) dated 28.03.1973 and pay the difference amount in compensation with statutory interest as provided under Law applicable upto 10 years with effect from 11.05.1973 and equitable interest at the rate of 11 percent for the period beyond 10 years commencing from 11.05.1973 and upto the date of actual payment of difference in compensation to be redetermined by the 2nd respondent herein.

2. The petitioner is the Liquidator of Neikarapatty Dairies (Private) Limited. The Government of Tamil Nadu issued Notice under Section 18(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (hereinafter called the "Act") published in the Government Gazette on 28.03.1973 with regard to an extent of 1374.19 acres of surplus lands belonging to

Neikarapatty Dairies (Private) Limited. Therefore, the company was forced to go into liquidation, since the main assets of the company was acquired under the said notification.

3. Before the said notice, an extent of 19.17 acres of land in Survey No.119 and to an extent of 76.47 acres comprised in Survey No.120 belonging to the company were sold to third parties by registered sale deed dated 05.07.1965. Those lands were also declared as surplus as if in the holding of the company. Therefore, the purchasers filed revision before the Land Commissioner challenging the declaration of the said lands purchased by them. The Land Commissioner vide order dated 08.06.1973 dismissed the revision as not maintainable. It was also challenged before this Court in W.P.No.3825 of 1973. By an order dated 17.11.1977 the Commissioner's order dated 08.06.1973 and also the notification issued under Section 18(1) of the Act was quashed with direction to reopen the proceedings under Section 10(5) of the Act and pass final orders after giving opportunity to the purchasers.

4. Though the purchasers challenged the order passed by the Land Commissioner in respect of the Land which were purchased by them to an extent of 95.64 acres, this Court quashed the entire proceedings under Section 18(1) of the said Act including the other land. Therefore, the remaining Lands aggregating to 1278.55 acres as per Section 18(4) of the Act was regained with the Government, since 28.03.1973 in pursuance of the Notification issued under Section 18(1) of the Act, as directed by this Court the second notification published in G.O.Ms.No.1966, Revenue dated 10.09.1981 under Section 18(1) of the Act and published for the Tamil Nadu Government Gazette on 05.06.1996.

5. Even then the Government failed and neglected to pay the compensation to the petitioner. The company filed S.R.P.No.19 of 1997 before the Tamil Nadu Land Reforms Special Appellate Tribunal, Madras and claimed interest along with other reliefs. By an order dated 02.01.1998 the Tribunal directed the Government to pay the compensation on or before 30.06.1998. However, the Draft Assessment Roll was published on 19.08.1998 determining an amount of Rs.4,64,221/- as compensation without any interest. Therefore, the company filed appeal in C.M.A.No.30 of 1998 before the Land Tribunal, Chennai and claimed interest along with other reliefs.

6. While pending the appeal the second respondent caused Final Assessment Roll to be published in the Tamil Nadu Government Gazette on 10.02.1999 confirming the Draft Assessment Roll and thereby denied the interest. However, the Land Tribunal, Chennai allowed the appeal in C.M.A.No.30 of 1998 and

aggrieved by the same the second respondent filed S.R.P.No.21 of 2000 and the same was set aside by the Tamil Nadu Land Reforms Special Appellate Tribunal by an order dated 23.11.2000, since the possession of the land was acquired from the company as early as on 28.03.1973 and as such the interest to be calculated as per the provisions of Schedule III of the Act and the provisions under the Tamil Nadu Act No.11 of 1979 does not apply to the company.

7. Therefore, the writ petitioner prayed to set aside the G.O.Ms.No.1966, Revenue, dated 10.09.1981 under Section 18(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 and the Government Gazette No.21A Part II - Section 1 (Supplement) dated 05.06.1996 and the order dated 23.11.2000 passed in S.R.P.No.21 of 2000 in so far as it relates to the determination of amount payable for the Land acquired from the petitioner and consequently direct the respondents to determine afresh under Section 50 of the Tamil Nadu Land Reforms Special Appellate Tribunal Act the amount payable.

8. The respondents filed counter before the Tamil Nadu Land Reforms Special Tribunal and on its abolition all the cases were transferred to this Court and converted as writ petitions. The original notification issued under Section 18(1) of the Act dated 28.03.1973 was set aside by this Court in W.P.No.3825 of 1973 dated 17.11.1977. Therefore, the land notified as surplus in the notification dated 28.03.1973 never vested in the Government as per Section 18-D(1)(b) of the Act. The Section 18-D(2) also very clear that no claim shall be enforceable in respect of such land against the Government or any person deriving right from them for the period from the date of the vesting of such land in the Government and ending with the date of reversion as per Section 18-D(2) of the Act.

9. After setting aside the notification issued under Section 18(1) of the Act, the acquired property were not given to the assignees and no changes were made in the Revenue Records. Therefore, by the revised notification under Section 18(1) of the Act published on 05.06.1996, the Land was declared as surplus from the holdings of the petitioner company only on 05.06.1996. Hence, there is no delay in payment of amount payable to the petitioner on the part of the Government.

10. In fact, the Tamil Nadu Land Reforms Special Appellate Tribunal confirmed the Draft Assessment Roll published on 19.08.1998 in S.R.P.No.21 of 2000 by an order dated 23.11.2000. Therefore, the law that was in force on the date of vesting the land with the Government will prevail and at that time the Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Amendment Act, 1979 (Tamil Nadu Act 11 of 1979) came into force with effect

from 27.10.1978. The payment of amount payable to the land owner for the lands notified as surplus on and after 27.10.1978 are governed by Schedule III of the Act as amended by the Tamil Nadu Act 11 of 1979. Therefore, the determination of the amount payable to the petitioner only in accordance with the provisions of the Tamil Nadu Act 11 of 1979.

11. In fact, some of the purchasers of the subject property filed revision petitions before the Land Commissioner as against the proclamation dated 11.04.1973 under Section 18(2) of the Act. It was dismissed as not maintainable and aggrieved by the same the purchasers filed writ petition before this Court in W.P.No.3825 of 1973 and the same was allowed by an order dated 17.11.1977 thereby set aside the notification issued under Section 18(1) of the Act with a direction to reopen the proceedings under Section 10(5) of the Act.

12. Accordingly, a revised order under Section 10(5) of the Act issued on 24.11.1978 invoking the provisions contained under Section 23(2) of the Act. Aggrieved by the said order the purchasers preferred appeals in C.M.A.Nos.98 of 1978 and 2 of 1979 and the same were disposed of by an order dated 14/01.1980 thereby setting aside the order of Authorized Officer, Dindugul and remanded back for fresh disposal. Pursuant to the said order, again revised order passed under Section 10(5) of the Act on 20.06.1981. Aggrieved by the same again it was challenged in C.M.A.No.83 of 1981 before the Land Tribunal and the same was dismissed by an order dated 26.07.1982.

13. The said order also challenged by way of writ petition in W.P.No.6044 of 1981 before this Court. It was dismissed by this Court by an order dated 30.11.1981 on the ground that the appeal filed before the Land Tribunal, Thanjavur was pending. Subsequently, the appeal also dismissed and confirmed by the Tamil Nadu Land Reforms Special Appellate Tribunal, Chennai in T.R.P.No.682 of 1991 by an order dated 15.10.1992. Therefore as per the notification issued under Section 18(1) of the Act dated 05.06.1996 determined the amount payable to the landowner under Section 50(1 and 2) of the Act and published the Draft Assessment Roll dated 19.08.1998 it was duly served on the liquidator of the company on 12.09.1998.

14. In fact, the company in the year 1997 filed revision before the Tamil Nadu Land Reforms Special Appellate Tribunal by an order dated 02.01.1998 directed the second respondent to finalise the further proceedings and to pay the amount due on or before 30.06.1998, thereafter on 10.02.1999 the Final Assessment Roll was published and the sum of Rs.4,64,221/- was also paid to the petitioner company on 23.06.1999. The company also filed appeal as against the order passed under Section 50(4) of the

Act before the Land Tribunal and the Land Tribunal in C.M.A.No.30 of 1998 by an order dated 30.11.1999 remanded the matter back to the Assistant Commissioner for passing suitable orders.

15. Aggrieved by the same the Government of Tamil Nadu filed Special Revision Petition before the Tamil Nadu Land Reforms Special Appellate Tribunal in S.R.P.No.21 of 2000 by an order dated 23.11.2000 confirmed the Draft Assessment Roll and the second respondent issued under Section 50(4) of the Act dated 09.11.1998. Again the notification issued under Section 18(1) of the Act dated 05.06.1996 challenged before this Court by way of this writ petition to quash the same and directed the respondents to pay the statutory interest at the rate of 4% from 28.03.1973 to 27.03.1983 and 11% thereafter till 23.06.1999.

16. The learned counsel for the petitioner submitted that the petitioner is the liquidator of Neikarapatti Dairies (Private) Limited (In Voluntary Liquidation) was appointed as liquidator by this Court by an order dated 11.02.2011 in Company Application No.1704 of 2010. The petitioner came to know about the facts with regards to the Land Reforms Proceedings after appointment as liquidator. Therefore, the petitioner challenged the earlier proceedings with a consequential direction to determine the amount afresh under Section 50 of the Act.

17. Heard Mr.V.R.Rajasekaran, learned counsel for the petitioner and Mr.Richardson Wilson, Government Advocate for the respondents.

18. As rightly pointed by the respondents that the Notification issued under Section 18(1) of the Act dated 28.03.1973 was set aside by this Court in W.P.No.3825 of 1973 dated 17.11.1977. Therefore, the land notified as surplus in the notification dated 28.03.1973 were never vested in the Government as per Section 18-D(1)(b) of the Act. The Section 18-D(2) also very clear that no claim shall be enforceable in respect of such land against the Government or any person deriving right from them for the period from the date of the vesting of such land in the Government and ending with the date of reversion as per Section 18-D(2) of the Act.

19. After set aside the notification issued under Section 18 (1) of the Act, the acquired property were not given to the assignees and no changes were made in the Revenue Records. Therefore, by the revised notification under Section 18(1) of the Act was published on 05.06.1996 and the Land was declared as surplus from the holdings of the petitioner company only on 05.06.1996. Therefore there is no delay in payment of amount payable to the petitioner on the part of the Government.

20. In fact, the Tamil Nadu Land Reforms Special Appellate Tribunal confirmed the Draft Assessment Roll published on 19.08.1998 in S.R.P.No.21 of 2000 by an order dated 23.11.2000. Therefore, the law that was in force on the date of vesting the land with the Government will prevail and at that time the Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Amendment Act, 1979 (Tamil Nadu Act 11 of 1979) came into force with effect from 27.10.1978. The payment of amount payable to the land owner for the lands notified as surplus on and after 27.10.1978 are governed by Schedule III of the Act as amended by the Tamil Nadu Act 11 of 1979. Therefore, the determination of the amount payable to the petitioner only in accordance with the provisions of the Tamil Nadu Act 11 of 1979.

21. In fact, some of the purchasers of the subject property filed revision petition before the Land Commissioner as against the proclamation dated 11.04.1973 under Section 18(2) of the Act. It was dismissed as not maintainable and aggrieved by the same the purchasers filed writ petition before this Court in W.P.No.3825 of 1973 and the same was allowed by an order dated 17.11.1977 thereby set aside the notification issued under Section 18(1) of the Act with a direction to reopen the proceedings under Section 10(5) of the Act.

22. Accordingly, a revised order under Section 10(5) of the Act issued on 24.11.1978 invoking the provisions contained under Section 23(2) of the Act. Aggrieved by the said order the purchasers preferred appeals in C.M.A.Nos.98 of 1978 and 2 of 1979 and the same were disposed of by an order dated 14/01.1980 thereby setting aside the order of Authorized Officer, Dindugul and remanded back for fresh disposal. Pursuant to the said order again revised order passed under Section 10(5) of the Act on 20.06.1981. Aggrieved by the same again it was challenged in C.M.A.No.83 of 1981 before the Land Tribunal and the same was dismissed by an order dated 26.07.1982.

23. The said order also challenged by way of writ petition in W.P.No.6044 of 1981 before this Court. It was dismissed by this Court by an order dated 30.11.1981 on the ground that the appeal filed before the Land Tribunal, Thanjavur was pending. Subsequently, the appeal also dismissed and confirmed by the Tamil Nadu Land Reforms Special Appellate Tribunal, Chennai in T.R.P.No.682 of 1991 by an order dated 15.10.1992. Therefore as per the notification issued under Section 18(1) of the Act dated 05.06.1996 determined the amount payable to the landowner under Section 50(1 and 2) of the Act and published the Draft Assessment Roll dated 19.08.1998 it was duly served on the liquidator of the company on 12.09.1998.

24. In fact, the company in the year 1997 filed revision before the Tamil Nadu Land Reforms Special Appellate Tribunal and by an order dated 02.01.1998 directed the second respondent to finalise the further proceedings and to pay the amount due on or before 30.06.1998, thereafter on 10.02.1999 the Final Assessment Roll was published and the sum of Rs.4,64,221/- was also paid to the petitioner company on 23.06.1999. The company also filed appeal as against the order passed under Section 50 (4) of the Act before the Land Tribunal and the Land Tribunal in C.M.A.No.30 of 1998 by an order dated 30.11.1999 remanded the matter back to the Assistant Commissioner for passing suitable orders.

25. Aggrieved by the same the Government of Tamil Nadu filed Special Revision Petition before the Tamil Nadu Land Reforms Special Appellate Tribunal in S.R.P.No.21 of 2000 by an order dated 23.11.2000 confirmed the Draft Assessment Roll and the second respondent issued under Section 50(4) of the Act dated 09.11.1998. Again the notification issued under Section 18(1) of the Act dated 05.06.1996 challenged before this Court by way of this writ petition to quash the same and directed the respondents to pay the statutory interest at the rate of 4% from 28.03.1973 to 27.03.1983 and 11% thereafter till 23.06.1999.

26. The subsequent purchasers as well as the company already challenged the earlier notification as well as the subsequent proceedings in pursuant to the fresh notification issued under Section 18(1) of the Act dated 05.06.1996. Once again now the petitioner being the liquidator of the company filed the present writ petition challenging the very same proceedings insofar as it relates to the determination of the amount payable for the Land acquired from the petitioner company. That too after a period of very long time, when the notification issued under Section 18(1) of the Act and published on 28.03.1973 to an extent of 1374.19 acres and surplus lands were taken possession by the Government on 11.05.1973 under Section 18(4) of the Act.

27. In view of the order passed by this Court in W.P.No.3825 of 1973 dated 17.11.1977 setting aside the notification issued under Section 18(1) of the Act, the surplus land specified in such notification shall be deemed never to have vested in the Government as per Section 18-D(1)(b) of the Act. It is relevant to extract the provision under Section 18-D(1)(b) of the Act as follows:

> "(1) Where any notification
> (b) Is cancelled under Section 18-C, the surplus land specified in such notification.
> 'shall be deemed never to have vested in the Government and the authorized officer

shall make the necessary consequential modification in the assessment roll concerned'."

28. That apart, by virtue of the provision under Section 18-D(2) of the Act the lands that are deemed never to have vested in the Government and the lands shall stand reverted to the petitioner company with effect from the date of publication of notification. It is also relevant to extract the provision under Section 18-D(2) of the Act as follows:

> "(2) The land referred to in sub-section (1) shall stand reverted with effect from the date of the publication of the notification effecting the modification or cancellation, as the case may be, to the person lawfully entitle to such land and any assignment of such land by the Government to any person prior to such date shall be deemed to have been cancelled. No claim shall be enforceable in respect of such land against the Government or any person deriving rights from them, for the period from the date of the vesting of such land in the Government and ending with the date of reversion under this sub-section."

29. After the Notification dated 28.03.1973 under Section 18 (1) of the Act the surplus lands were assigned to eligible persons. But the said notification was set aside by this Court, the possession of the land were not given to the assignees and no changes were made in the Revenue Records. As per Section 18-D(2) of the Act the assignment of land notified in the notification to any person by the Government prior to such date shall be deemed to have been cancelled and no claim shall be enforceable in respect of such land.

30. That apart, the order passed by the Tamil Nadu Land Reforms Special Appellate Tribunal can be challenged before this Court by way of writ appeal. It cannot be challenged by way of writ petition under Article 226 of the Constitution of India. That too the order dated 23.11.2000 passed in S.R.P.No.21 of 2000 has been challenged after lapse of several years. Therefore, the prayer sought for in this writ petition cannot be considered and the main writ petition is dismissed as devoid of merits.

31. Accordingly, this writ petition stands dismissed. No order as to costs. Consequently the connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
   Revenue Department,
   Fort St. George,
   Chennai - 600 009.

2. The Assistant Commissioner,
   (Land Reforms)
   36 Barathi Ula Salai,
   Race Course Colony,
   Madurai - 625 002.

COPY TO:
The Tamil Nadu Land Reforms
Special Appellate Tribunal,
Santhome, Chennai 4.

+1 CC to The Government Pleader, Sr 42683.

W.P.No.10799 of 2011
and W.M.P.No.5233 of 2019

MG(CO)
LS(23/09/2021)