IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.21137 of 2004

1. V.R.Senapathi Gounder (deceased)
2. Leelavathi Ammal (deceased)
3. V.S.Udhayakumar
4. V.S.Suryakumar ...Petitioners

Vs.

1. The Land Commissioner (L.Ref.), Chepauk, Madras.

2. The Authorised Officer (L.Ref.), Coimbatore.

3. The District Collector, Coimbatore.

4. The Sub Collector-cum-the Revenue Divisional Officer, Pollachi.

[R3 & R4 are implead as per order dated 07.08.2018 in W.M.P.No.27346 of 2017 in W.P.No.21137 of 2004]

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to review the orders passed in the above T.R.P. Dated 29.06.1995.

For Petitioners : Mr.A.Sivaji

For Respondents : Mr.Richardson Wilson
Government Advocate

O R D E R

This petition has been filed seeking to review the order passed in T.R.P.No.20 of 1994 dated 29.06.1995.

2. The second respondent initiated proceedings as against the land owned by the first and second petitioners (since deceased) holding more than the ceiling limit under the Tamil

Nadu Land Reforms (Fixation of Ceiling on Land) Act. (hereinafter referred to as 'the Act', for short). Holdings of the land owner viz., the first petitioner was determined as 60.00 ordinary acres equivalent to 22.502 standard acres under Section I and holdings of the second petitioner herein was determined as 96.10 ordinary acres, equivalent to 29.204 standard acres under Section VI. Therefore, on 03.10.1973, draft statement was published in the Tamil Nadu Government Gazette declaring an extent of 86.11 ordinary acres, equivalent to 26.706 standard acres, as surplus. The first and second petitioners filed their objections claiming certain exemptions and exclusion an extent of 48.68 acres. On inspection of the lands, the Authorised Officer (Land Reforms) passed an order and thereby declared that to an extent of 83.08 ordinary acres, equivalent to 25.301 standard acres, as surplus, thereby passed an order dated 20.06.1974. The land which was used as Mango Tope, comprised in S.No.676/1 to an extent of 1-14 ordinary acres, was exempted. The property to an extent of 4.30 ordinary acres, was excluded under Section 3 (22) of the Act from the agricultural holdings of the first petitioner herein situated at Vettaikaranpudur, Pollachi Taluk. By an order dated 15.05.1975, exemption under Section 73 (vii) of the Act was made in respect of the agricultural holdings of the first petitioner herein by granting to an extent of 23.52 ordinary acres comprised in S.F.Nos.651, 646/A and 646/B. Thereafter, the first and second petitioners filed a petition in LTA.No.385 of 1974 against the order passed under Section 10 (5) of the Act on 21.06.1974 before the Land Tribunal, Coimbatore. The same was allowed and the matter was remanded for re-consideration. Thereafter, the first petitioner filed an application before the Assistant Commissioner (Land Reforms) to adopt 1.75: 1.00 ratio instead of 1.20 : 1.00 ratio for the lands comprised in S.F.No.655 to an extent of 6.82 acres, S.F.No.656/A to an extent of 0.21 acres, S.F.No.656/B to an extent of 4.40 acres, S.F.No.661 to an extent of 1.00 acres and S.F.No.656/B to an extent of 2.73 acres. Thereafter, an order dated 25.08.1975 was passed under Section 10 (5) of the Act by the Assistant Commissioner (Land Reforms). Finally, the final statement by an order dated 04.07.1979 under Section 12 of the Act was published and declared to an extent of 1.35 ordinary acres, equivalent to 0.770 standard acres under Section I and 39.58 ordinary acres,, equivalent to 12.720 standard acres totaling 40.93 ordinary acres, equivalent to 13.490 standard acres as surplus, based on which, notification under Section 18(1) of the Act was published on 27.08.1980 declaring to an extent of 40.93 ordinary acres, equivalent to 13.490 standard acres as surplus. Aggrieved by the said notification, the first and second petitioners filed revision petition before the Land Commissioner and the same was dismissed by an order dated 21.12.1982. Aggrieved by the same, the first and second petitioners filed a Writ Petition before this Court in W.P.No.10042 of 1984 and it was transferred to the Tamil Nadu Land Reforms Special Appellate Tribunal and re-numbered as TRP.No.20 of 1994.

3. In the meanwhile, the first petitioner died on 29.06.1995 and on the petition filed by his legal heirs, TRP.No.20/1994 restored and subsequently, it was dismissed on merits. Aggrieved by the said order, the legal heirs of the deceased first petitioner filed a review petition before the Tribunal to review the order passed in TRP.No.20 of 1994 dated 29.06.1995. In the said review, they raised ground that the Adangal for Faslis 1367, 1368, 1369 have been caused to re-calculate the total holdings and the exemption areas. On receipt of the review application, the Tribunal called for report from the Assistant Commissioner (Land Reforms), Erode by way of interim order in M.P.No.379 of 1995 in TRP.No.20 of 1994, thereby, the Assistant Commissioner (Land Reforms), Erode inspected the lands and filed his report on 29.06.1998, which reads as follows:-

> "....With reference to the letter above I wish to state that efforts were made at the Taluk Office, Pollachi to take out the original records (i.e) adangals from faslis 1367 to 1404, for verification with the Xerox copies of extracts produced by the revision petitioner Thiru.S.Uthaya Kumar, S/o.Senapathi Gounder in this case. The adangals for the following faslis were available.
>
> Sathumadai
> (Vettaikaranpudur) 1390 to 1395, 1397 to 1401
> Devikapattinam
> (Vettaikaranpudur) 1390 to 1404 (except 1396 and 1402)
>
> The Tahsildar has stated that the adangals prior to fasli 1390 are not available in Taluk office. Therefore with the available records I am submitting a statement fasli wise with the details of cultivation entries. A copy of notes of inspection is enclosed.
>
> My verification report in obedience to the directions of Tamil Nadu Land Reforms Special Appellate Tribunal is submitted in duplicate.
>
> The records are sent through Thiru.L.Easwaran, Assistant of this office, as the concerned seat is vacant. The following records are enclosed. I request that a draft

report to filed before the Tribunal may kindly be sent through him so as to enable me to submit the same after authentication.

1. Adangal extracts-vettaikaranputhur
Sethumadai fasli 1390 to 1395, 1397 to 1401
Devipattinam fasli 1390 to 1404 except 1396.
2. The statement showing receipt of cultivation.
3. Extract from Adangal fasli 1407
4. Copy of inspection notes.
5. Material records in pages 1 to 392
54/S/1730 393 to 536
563 to 644 Three volumes
6. Four sets adangal extract fasli 1367 to 1404
Produced by the land owner.
Their receipt may kindly be acknowledged."

4. That apart, the deceased first petitioner, by his application dated 12.08.1975, requested the Assistant Commissioner (Land Reforms) to adopt 1.75 : 1.00 ratio instead of 1.20 : 1.00 ratio for the lands and the Tribunal was already constituted during his life time.

5. The learned counsel for the petitioners submitted that the Adangal extract produced by the Assistant Commissioner (Land Reforms) are not consistent and continuous in respect of for most of the entries for Faslis specified therein. There is clear exemption and exclusion for specific extent, which was not reflected in the Adangal extract filed by the Assistant Commissioner. The inconsistency and the contradictions which are revealed in the Adangal extract, will clearly show that the entires made by the Assistant Commissioner are not properly noted and it was made without notice to the petitioners. He further submitted that they claim exemptions and exclusions and the crucial date is only 01.07.1959, viz., the Fasli 1369 to decide the dispute, whereas, in the report, there is no Adangal extract filed prior to Fasli 1390 and it was filed from Fasli 1390 and it cannot be taken as a relevant factor to decide the issue as to whether the land is eligible for exemption and exclusion, as claimed by the petitioners. Therefore, he prayed to set aside the order passed by the Commissioner and to remand back the matter to the Authorised Officer to pass fresh orders, after considering the exemptions and exclusions.

6. Per contra, the learned Government Advocate appearing for the respondents submitted that, as requested by the original land owner, viz., the father of the first petitioner, already the exclusion and exemption were considered and orders were passed. Accordingly, some of the lands were excluded and exempted as per the provisions under the Act. Without

challenging those orders, simply they filed a petition to review and they dragged on the proceedings for the past 45 years. He further submitted that, as directed by this Court, by an order dated 01.10.2018, the Authorised Officer (Land Reforms) was directed to submit a report. Accordingly, the report dated 18.07.2019 was filed by the Assistant Commissioner (Land Reforms), Erode before this Court.

7. Heard the learned counsel for the petitioners and the learned Government Advocate appearing for the respondents.

8. On a perusal of the report dated 18.07.2019, it reveals that the petitioners have produced the Xerox copies of the Adangal from Faslis 1367 to 1404. The Adangal related to Faslis 1390 to 1395, 1397 to 1401, 1403 and 1404 which were found available and the Adangal prior to Fasli 1390, are not traceable in the records. Therefore, with the available Adangal extract the relevant Survey Numbers have been taken and produced. During his inspection on 06.04.1998, a legal representative of the first petitioner V.S.Udayakumar was present and he found only young mango trees in S.Nos.958/B1, 960/1A1, 961, 962/1A1, 968/1A1 and 968/1A2 with intermittent vacant space, which would be aged only from 3 to 4 years. The other dry crops having been raised in the previous Faslis, have revealed that mango trees could not have existed and the character of the land is not maintained as per Section 73 (vii) of the Act in respect of Sethumadai-Vettaikaranputhur Village. Insofar as the Devipattinam-Vettaikaranputhur is concerned, the entries in the Adangal record show that it pertains to Fasli 1380, except in R.S.Nos.651 and 676/1, in other lands, coconut trees have not been raised and only in subsequent Faslis, they were planted. That apart, the Xerox copies of Adangal do not have true entries as per verification of original record. The entries in several columns are not available in the Xerox copies from Adangal produced by the petitioners which do not form the basis as supporting factor for claiming exemptions.

9. That apart, an extent of 18.70 acres in S.P.Ro.651/1 had been declared as surplus among other lands, whereas, the petitioners owned an extent of 24.02 acres, out of which 8.23 acres have been exempted under Section 73 (vii) of the Act. They own an extent of 30.00 acres of land in S.No.651, out of which an extent of 1.74 acres of land, was excluded under Section 3 (22) of the Act and an extent of 8.28 acres of land was exempted under Section 73 (vii) of the Act, leaving an extent of 19.98 acres in their holdings. Therefore, the grounds raised by the petitioners were already considered and this Court finds no merits in this Writ Petition and it is liable to be dismissed.

10. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kv

To

1. The Land Commissioner (L.Ref.),
   Chepauk, Madras.

2. The Authorised Officer (L.Ref.),
   Coimbatore.

3. The District Collector,
   Coimbatore.

4. The Sub Collector-cum-the
   Revenue Divisional Officer,
   Pollachi.

+1cc to Mr.A.Sivaji, Advocate, S.R.No.39643
+1cc to the Government Pleader, S.R.No.39462

W.P.No.21137 of 2004

GPL[co]
NSK 17/09/2021