IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.08.2021

PRONOUNCED ON : 07.09.2021

CORAM

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

WP.No.26513 of 2008
and
MP.Nos.1 & 2 of 2008

R.Mangaiarkarasi ..Petitioner

Vs.

1. Union of India,
   U.T. of Puducherry,
   Rep. by Secretary to the Government,
   Revenue Department, Government of Puducherry,
   Puducherry 605 002

2. The Sub Collector(Revenue) (North),
   cum Authorised Officer(Land Reforms),
   Saram, Puducherry 605 008 ..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records relating to the final statement under Section 11 of the Puducherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 (Act No.9 of 1974) dated 22.11.2000 (published in the gazette of Pondicherry No.173 dated 29.12.2000) and the notification under Section 17(1) of the said Act dated 26.08.2008 issued by the second respondent and quash the same insofar as they are relating to the agricultural lands of the petitioner bearing (i) cadastre No.1042/2/2, measuring 0.13.30 HAC & (ii) cadastre No.1042/2/3, measuring 0.13.30 HAC in T.N Palayam Revenue Village, Puducherry.

For Petitioner : Mr.T.P.Manoharan,
Senior Counsel
for Mr.K.P.Jotheeswaran

For Respondents: Mr.J.Kumaran,
Additional Government Pleader
(Puducherry)

ORDER

This writ petition is filed to issue a writ of certiorari calling for the records relating to the final statement under Section 11 of the Puducherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 (Act No.9 of 1974) dated 22.11.2000 (published in the gazette of Pondicherry No.173 dated 29.12.2000) and the notification under Section 17(1) of the said Act dated 26.08.2008 issued by the second respondent and quash the same insofar as they are relating to the agricultural lands of the petitioner bearing (i) cadastre No.1042/2/2, measuring 0.13.30 HAC & (ii) cadastre No.1042/2/3, measuring 0.13.30 HAC in T.N Palayam Revenue Village, Puducherry.

2. Heard, Mr.T.P.Manoharan, Senior Counsel appearing for the petitioner, and Mr.J.Kumaran, Additional Government Pleader (Puducherry) appearing for the respondents.

3. The petitioner purchased the agricultural land situated at Abishekapakkam village, Puducherry including the land bearing cadastre No.1042/2/2 admeasuring 0.24.90 hectares and cadastre No.1042/2/3 admeasuring 0.37.0 hectares from her father in law, P.C.Purushothama Reddiar. Her father in law was found to have held land in excess of the ceiling limit as prescribed under the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 (Act 9 of 1974) (hereinafter called as 'the Act') at T.N.Palayam and Kirumampakkam Revenue Villages. Therefore, he was issued notice under sub-section (1) of section 8 of the Act on 15.10.1975 with request to furnish the return in respect of his family land holdings in the Union Territory of Pondicherry on or before 24.10.1975. He replied by his letter dated 23.10.1975 that he could not able to come for enquiry on medical grounds and requested extension of time for 15 days. Accordingly, he was given time for submission of his return in Form No.2 upto 15.11.1975. He submitted his Form No.2 on 29.11.1975 and he furnished his particulars of land held as on 24.01.1971.

4. The said Purushothama Reddiar and his son filed writ petitions before this Court in WP.No.6907 of 1975 and WP.No.6908 of 1975 challenging the constitutional validity of the Act, which were dismissed by this Court by order dated 28.07.1976. While dismissing the writ petitions, this Court directed him to file his returns before authorised officer. In exercise of power, the authorised officer prepared a draft statement as contemplated under Section 8 (2) (b) of the Act in Form 8 under Section 9(1) of the Act specifying the land holdings to be declared as surplus. The authorised officer published Form 8 under sub-section (1) of Section 9 of the Act and sub-section (5) of Section 9 of the Act vide Extraordinary Gazette No.290 dated 30.06.1976 thereby declared that the land admeasuring

33.27.80 hectares or 20.9348 standard hectares of land as total holding of the said Purushothama Reddiar and out of which, 14.934 standard hectares of land as surplus. He filed returns and objection against the draft statement and averred that certain portion of lands which were alienated by them through sale or partition was to be excluded. On the enquiry, the authorised officer held that the family of the Purushohama Reddiar was holding surplus lands of 7.1027 standard hectares after excluding the lands alienated to and in favour of third parties before the appointed day i.e. 24.01.1971. The authorised officer also ignored the alienation made in between the appointed day and the date of commencement of the Act. Thereafter, the authorised officer prepared final statement as required under Section 11 of the Act dated 03.11.1976 in Form No.10. It was published on 12.11.1976, thereby 17.13.65 hectares of land as total holdings of the assessee, out of which 07.58.15 hectares or 6.000 standard hectares of land as the 'Retention' portion and 09.55.50 hectares or 7.1027 standard hectares of land as the surplus portion as on the appointed day i.e. 24.01.1971.

5. The owner of the land preferred an appeal as against final statement before the Tribunal in LTC MA.No.51/76 and the same was also dismissed on 30.07.1977. After publication of the final statement, one, Janakiraman made representation before the authorised officer stating that the final statement do not consider the exchange of land made between himself and his mother in law. After considering the said request, the authorised officer modified the final statement by proceedings dated 30.05.1978. Accordingly, the revised final statement was published as contemplated under Section 11 of the Act in the Extraordinary Gazatte No.105 dated 29.06.1978. In the meanwhile, the said Purushothama Reddiar died on 22.09.1977. A notification under Section 17(1) of the Act was published on 15.09.1978 wherein the names of the legal heirs were incorporated. The husband of the petitioner herein filed writ petition in WP.No.3808 of 1978 before this Court challenging the final statement on the ground that no opportunity was given. This Court dismissed the writ petition by order dated 31.10.1978 with observation that the petitioner therein can file appeal as provided under the Act. Accordingly, he filed appeal in LTC.MA.No.39/78 and the same was also dismissed on 21.02.1979, as against which, he filed revision in CARP.No.11 of 1978 before the Land Commissioner, Pondicherry and the same was allowed by order dated 04.06.1979 and remanded the matter back to the authorised officer for fresh enquiry.

6. Thereafter, authorised officer issued notice to the legal heirs of the deceased and fixed enquiry on 17.08.1979. They appeared and requested to delete some portion of the lands from

the holdings. In fact, the petitioner's husband again filed writ petition before this Court in WP.No.1212 of 1982 and again by order dated 26.08.1988, this Court remanded back to the authorised officer with direction to proceed in accordance with law. After giving sufficient opportunity to the persons concerned, the authorised officer passed order dated 13.02.1990 and held that 4.7226 standard hectares of lands in excess of the ceiling areas. Aggrieved by the same, the petitioner's husband preferred an appeal in LTC MA.No.1 of 1990 and the same was dismissed by order dated 07.10.1993. It was also challenged before this Court in CRP.No.3508 of 1993 and the same was also dismissed by order dated 07.01.1994.

7. The petitioner's husband thereafter filed a fresh statement of returns on 17.01.1994 and the authorised officer conducted enquiry. In the enquiry, the legal heirs represented through their counsel and final statement was published thereby retention portion was fixed as 6.0063 standard hectares. The legal heirs again represented through their counsel and produced documents relating to the partition, exchange and sale with contention that all the documents were executed before the appointed day i.e. 24.01.1971. The authorised officer in order to ascertain the ownership of the notified land, and after giving opportunity, conducted field inspection. The authorised officer found that all the family members have alienated 1.6307 standard hectares of notified surplus land after the appointed day i.e. 24.01.1971. Hence, they were issued notice on 23.10.2008, and after giving them an opportunity to identify the lands held by them and to hand over such lands, they failed to respond to the notice and as such the authorised officer had taken action under Section 22 (2) of the Act to take possession of the alternate lands in lieu of the alienation of lands, which was notified as surplus. The extent notified as surplus is 5.5207 standard hectares and an extent of 1.6307 standard hectares was found to be alienated after appointed day i.e. 24.01.1971. After receipt of the representations and documents, the authorised officer proceeded to take possession of 3.8900 standard hectares of lands declared as surplus portion and the shortfall is made good by taking possession of 1.6307 standard hectares from retention portion of the lands in view of the contiguity of lands. The proclamation order dated 03.11.2008 as contemplated under Section 17(2) of the Act was issued thereby declared that the surplus lands were acquired for public purposes and free from all encumbrances.

8. The learned Senior Counsel appearing for the petitioner submitted that the petitioner was not given opportunity in respect of the lands holding by her and it violates principles of natural justice under Articles 14 and 300-A of the Constitution of India. Final statement should contain only the

lands held by the said Purushothama Reddiar on the appointed day. Therefore, final statement and the notification insofar as the lands owned by the petitioner and others are contrary to the Act and the second respondent has no jurisdiction to publish the final notification. The petitioner was never served any notice and without taking any decision on her title over the lands included in the draft statement and mechanically prepared final statement. The second respondent also failed to follow the mandatory procedures provided under Section 8(2) (a) of the Act and to conduct enquiry required under Section 9 (1) (a) of the Act.

9. The second respondent filed counter and specifically averred that the said Purushotham filed written statement on 26.08.1976 and after his demise, ample opportunities were given to his legal heirs. The second respondent had scrupulously and meticulously adhered to the procedures provided under Section 9 (5) and (6) of the Act. Notices were duly served on the legal heirs including the petitioner's husband. Counter further revealed that the subject land in this writ petition claimed by the petitioner i.e. cadastre No.1042/2/2 correlates RS.No.151/4 admeasuring 0.13.30 hectares stands registered in the name of the said Purushothama Reddiar was covered under surplus portion while publishing in Form-10, Form-13 as contemplated under Sections 11 and 17(1) of the Act. The final proclamation issued as contemplated under Section 17 (2) of the Act on 03.11.2008 and the subject land comprised in cadastre No.1042/2/2 admeasuring 0.13.30 hectares was omitted from surplus portion and shown as 'retention portion' for the reason that an extent of 1.6307 standard hectares has been adjusted from the retention portion of the assessee as surplus land. Insofar another land which is claimed by the petitioner in cadastre No.1042/2/3 correlates RS.No.151/1 admeasuring 0.13.30 hectares stands registered sale deed in the name of he petitioner.

10. On perusal of the sale deed dated 24.03.1970 registered vide document No.831/1970 does not cover the impugned notification. The actual cadastre No.1042/3 was alienated by the sale deed. Therefore, cadastre No. which is covered under the proceedings vests with the Government vide proclamation dated 03.11.2008 issued as contemplated under Section 17 (2) of the Act. Therefore, the land in cadastre No.1042/2/3 is not found in the revenue records and as such the petitioner has no right or title over the property in cadastre No.1042/2/3 since it is not covered under the sale deed dated 24.03.1970 registered vide document No.831 of 1970. That apart, as stated supra, the petitioner and all other legal heirs were duly given opportunity of hearing and the petitioner and all the legal heirs had duly participated in the enquiry and as such they had knowledge about all the proceedings. The writ petition is devoid

of merits and liable to be dismissed.

11. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

lok

To

1. The Secretary to the Government,
   Union of India,
   U.T. of Puducherry,
   Revenue Department, Government of Puducherry,
   Puducherry 605 002

2.The Sub Collector(Revenue) (North),
   cum Authorised Officer(Land Reforms),
   Saram, Puducherry 605 008

+1cc to Mr.K.P.Jotheeswaran, Advocate, S.R.No.44986

WP.No.26513 of 2008

PVS(CO)
RGA(27/09/2021)