IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM

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

W.P.No.20868 of 2011

R.Lakshminarayanan .... Petitioner

Vs

1. The Land Commissioner,
   Ezhilagam,
   Chepauk,
   Chennai-600 005.

2. The Assistant Commissioner (Land Reforms),
   Tirunelveli,
   Murugankurichi,
   Tirunelveli-627 002. .... Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent dated 19.05.2011 in D1/R.P.No.7/2010 (L.Ref.) and quash the same as illegal and directing the 2nd respondent to determine the compensation payable to the petitioner under the Tamil Nadu (Fixation of Ceiling on Lands) Act, in accordance with law.

For Petitioner : Mr.J.Antony Jesus

For Respondents : Mr.M.R.Gokul Krishnan
Government Advocate

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent dated 19.05.2011 in D1/R.P.No.7/2010 (L.Ref.), quash the same as illegal and directing the 2nd respondent to determine the compensation payable to the petitioner under the Tamil Nadu (Fixation of Ceiling on Lands) Act, in accordance with law.

2. The case of the petitioner is that his great grandfather owned agricultural land in Vilathikulam. The respondents were initiated proceedings under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (herein after called "the Act"), as amended by the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970, to an extent of 166.64 ordinary acres of land were declared as surplus in the notification under Section 18(1) of the Act published in the Tamil Nadu Government Gazette dated 11.04.1973. On a revision, the respondents excluded an extent of 2.17 acres in survey No.18/2 of Kumaragiri Village and issued final statement under Section 12 of the Act. Accordingly, an order was passed under Section 15 of the Act on 30.09.1977. The final statement was published in the Tamil Nadu Government Gazette on 01.02.1978. After some proceedings in respect of the exclusion of the land, finally to an extent of 43.760 standard acres was declared as surplus from the holdings of the land owner, as per the modification to notification under Section 18(1) of the Act published in the Tamil Nadu Government Gazette dated 13.11.2002.

3. After demise of his great grandfather, all the properties were bequeathed in favour of the petitioner herein, as per Will dated 29.08.1978. Thereafter, the compensation amount for the acquired lands was declared under Section 50 of the Act. The Draft Assessment Roll was published in the Tamil Nadu Government Gazette dated 28.01.2004. Accordingly, the compensation amount was fixed at Rs.1,80,433/- (Rupees One Lakh Eighty Thousand Four Hundred and Thirty Three only). For enhancement of the compensation amount, the petitioner filed a petition. Thereafter, an order dated 24.05.2004 was passed under Section 50(4) of the Act and determining the value of the land as Rs.2,22,054/- (Rupees Two Lakh Twenty Two Thousand and Fifty Four only) including the interest payable.

4. Aggrieved by the same, the petitioner filed Revision Petition before the first respondent in R.P.No.1 of 2004. By an order dated 16.05.2005, the first respondent directed the second respondent to re-determine the amount payable to the land owner based on the entries made in the adangals and other available records regarding crops raised prior to the date of publication

of Section 18(1) notification in the Tamil Nadu Government Gazette. Accordingly, the second respondent re-determined the value of the land by an order dated 05.01.2006, determining the value at Rs.2,90,608/- (Rupees Two Lakhs Ninety Thousand Six Hundred and Eight only) inclusive of interest. Aggrieved by the same, the petitioner also filed the revision before the first respondent and the same was dismissed.

5. The learned counsel for the petitioner would submit that the order passed by the respondents are in violation of Schedule III of the Act. The first respondent has taken only three fasli years 1378, 1379 & 1380 to calculate the compensation and to get the average income from cultivation. The respondent ought to have taken 5 years, prior to the date of publication of notification under Section 18(1) of the Act, to calculate the compensation.

6. He further submitted that the respondents taking into consideration of the cultivation and also submit a report and for reasoning of the first respondent, there is nothing to show whether the report has been submitted or not. The respondents did not determine the correct value of the land and therefore the non -valuation of trees and Katch sheds is also vitiated the entire proceedings, since, the second respondent did not consider the trees which was stood in the land and also failed to consider the Pannai Chitta for cultivation, were not produced along with adangal.

7. On perusal of the counter revealed that the second respondent has been disbanded and the post of the Assistant Commissioner has also been disbanded as per the orders of Government in G.O.Ms.No.34, Revenue dated 14.01.2015. The said power now conferred to the Sub-Collector/Revenue Divisional Officers in the Districts as per the notifications dated 04.03.2015 and 05.03.2015. The great grandfather of the petitioner was holding the excess land, he was attracted by the provisions of the Act. Therefore, the action was initiated against the holdings of one S.Kuppa Reddiar, after following the procedure laid down under the Act, to an extent of 166.64 ordinary acres of land was declared as surplus under Section 18(1) of the Act published in the Tamil Nadu Government Gazette dated 11.04.1973. After revision and other proceedings, finally to an extent of 162.37 ordinary acres equivalent to 43.760

standard acres was declared as surplus from the holdings of the land owner.

8. According to the Draft Assessment Roll, the amount payable to the land owner was determined as Rs.1,80,433/- (Rupees One Lakh Eighty Thousand Four Hundred and Thirty Three only). The petitioner filed a petition for enhancement of compensation, after due enquiry and verification of the records, an order under Section 50(4) of the Act was passed on 24.05.2004. Thereafter, the Final Assessement Roll was got published in the Tamil Nadu Government Gazette dated 20.10.2004, thereby determining the value for the land at Rs.2,22,054/- including the interest payable. Therefore, the petitioner has filed a revision before the first respondent and by an order dated 16.05.2005, directed the second respondent to re-determine the value of the land after taking into account the crops raised in the surplus land with reference to the entries made in the adangal for the fasli years 1378, 1379 & 1380. Accordingly, the second respondent determined the amount of compensation at Rs.2,90,608/- inclusive of interest. Aggrieved by the same, the petitioner filed a revision before the first respondent. It was filed after a lapse of 4 ½ years before the first respondent from the date of order passed by the second respondent. While determining the value of the land, the second respondent had taken into account of the entries made in the Adangal for fasli years 1378, 1379 & 1380 to find out the nature of cultivation in the field. Accordingly, the said land was cultivated with normal crops and arrived the amount of compensation.

9. That apart, the report by the Special Deputy Tahsildar (Land Reforms), Kovilpatti dated 09.08.1975 has also taken into consideration by the second respondent to determine the value of the land. Therefore, the second respondent determined the compensation in accordance with the statutory provisions contained under the Act and the rules framed therein.

10. Heard, Mr.J.Antony Jesus, the learned counsel appearing for the petitioner and Mr.M.R.Gokul Krishnan, learned Government Advocate appearing for the respondents.

11. The petitioner's great grandfather holding an excess land and finally 43.760 standard acres was declared as surplus. Accordingly, the notification issued under Section 18(1) of the

Act and the same was published in the Tamil Nadu Government Gazette dated 13.11.2002. Accordingly, an order under Rule 45(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1962 was published on 22.12.2003. Following the said order, the Draft Assessment Roll was got published in the Tamil Nadu Government Gazette dated 28.01.2004. Accordingly, the value was determined at Rs.1,80,433/-. It was duly served on the legal representatives and the petitioner had filed a petition for enhancement of compensation. After enquiry and verification of records, an order under Section 50(4) of the Act was published on 24.05.2004 and the Final Assessment Roll was published in the Tamil Nadu Government Gazette dated 20.10.2004. Accordingly, the value of the land was determined including the interest payable. Aggrieved by the same, the petitioner preferred a revision before the first respondent in R.P.No.1 of 2004 and by an order dated 16.05.2005, the first respondent remanded back the matter to the second respondent, for re-determine the value. Accordingly, the second respondent passed an order dated 05.01.2006, thereby determining the compensation at Rs.2,90,608/-.

12. The learned counsel for the petitioner would submit that as per Schedule III of the Act sub-clause 5, the compensation was not determined. The sub-clause 5 of the Schedule III shows that the amount payable for trees on land other than forest land shall be the value of such trees on the date of publication of the notification under Section 18(1) of Act, in case of trees grown by human effort other than fruit bearing trees at Rs.1,000 per acre. Further, the report submitted by the Special Deputy Tahsildar and the adangal extract did not reveal the excess land contained trees. It is further revealed that there were no trees, structures existed in the surplus land and the Karnam of the villages concerned had also recorded their statement before the Special Deputy Tahsildar to the effect that no trees and structures were existing in the surplus lands. Therefore, the contention raised by the petitioner is rightly rejected by the respondents.

13. The learned counsel for the petitioner raised another ground that the surplus land was cultivated with several crops and the income from the land has to be calculated at 20 times to determine the value of the land as per the Sub-clause 3 of the Schedule III. The Sub-clause 3 of the Schedule III says

that the annual value of the land shall be determined in the case of dry or manavari land irrigated from private source of irrigation owned by any person in his own land, twenty times the aggregate of the land revenue on the land and rupees five per acre. The second respondent on receipt of the report of the Special Deputy Tahsildar had taken in to account about the income from the adangal extracts for fasli years 1378, 1379 & 1380 prior to the date of publication of notification under Section 18(1) of the Act and determined the value of the land. There is no rule to say that the average income has to be taken into the five fasli year. However, the second respondent had taken into account of the 3 fasli year, determined the value of the land. Therefore, the value of the excess land is rightly valued by the second respondent after following the procedure laid down under the Act. It is also seen that the petitioner filed a revision petition as against the order passed by the second respondent, after a period of 4 ½ years.

14. That apart, the pannai Chitta produced by the petitioner could not be taken as a valid proof for cultivation as it is not a revenue record. As stated supra, the second respondent, after considering the report submitted by the Special Deputy Tahsildar dated 09.08.1975, determined the value of the excess land. Before the Special Deputy Tahsildar, the land owner had given his statement and the records. After due consideration, the second respondent determined the value of the land. Therefore, this Court finds no infirmity or illegality in the order passed by the 1st respondent dated 19.05.2011 in D1/R.P.No.7/2010 (L.Ref.). Hence, the Writ Petition is devoid of merits.

15. In view of the above, the Writ Petition stands dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Lpp/mn

To

1. The Land Commissioner,
   Ezhilagam,
   Chepauk,
   Chennai-600 005.

2. The Assistant Commissioner (Land Reforms),
   Tirunelveli,
   Murugankurichi,
   Tirunelveli-627 002.

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SRA(CO)
SB(11/11/2021)