



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NO.8144 OF 2004

AND

W.P.M.P.NO.20383 OF 2004

M.Thilagarajan

... Petitioner

.Vs.

1. The Commissioner,
Land Reforms, Chepauk,
Chennai - 5.
2. The Authorised Officer/
Assistant Commissioner,
Land Reforms, Trichy District,
Trichy.
3. Sethukkarasi Achi

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned notification passed by the second respondent dated 11.05.2000 published in Tamil Nadu Government Gazette dated 28.06.2000 and the order of the first respondent dated 11.05.2001 made in R.P.No.24 of 2001 (land Reforms) and set aside the same and consequently direct the respondents 1 and 2 to accept the alternative lands given by the petitioner instead of the lands declared as surplus in S.Nos.1 to 3 of the said notification dated 11.05.2000.

For Petitioner : Mrs.A.L.Gandhimathi

For Respondents : Mr.Richardson Wilson
Government Advocate
For R-1 & R-2



O R D E R

This petition has been filed seeking to quash the notification passed by the second respondent dated 11.05.2000 published in Tamil Nadu Government Gazette dated 28.06.2000 and the order of the first respondent dated 11.05.2001 made in R.P.No.24 of 2001 (land Reforms) and to direct the respondents 1 and 2 to accept the alternative lands given by the petitioner instead of the lands declared as surplus in S.Nos.1 to 3 of the said notification dated 11.05.2000.

2. The petitioner's father entered into a family partition among his three brothers and thereafter, they were in actual possession and enjoyment of their respective shares of the property right from the date of partition. At that juncture, the second respondent has passed an order under Section 12 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 with regard to the land belonging to his father as surplus. After demise of his father, the second respondent has declared 31.51 ordinary acres equivalent to 9.105 standard acres as surplus. Aggrieved by the same, the petitioner preferred a revision petition before the first respondent, contending that the lands comprised in S.F.Nos.803-1B, 803-B and 802-2 to an extent of 3.08, 0.71 and 8.83 acres respectively belonged to one Lakshmanan and further contended that the lands to an extent of 25 acres and 70 cents in S.F.No.539.3, were quite unfit for agricultural purposes. The petitioner's father has already sold out the entire extent and the same was wrongly included in the holdings of the petitioner's father. The first respondent, by an order dated 19.03.1997 allowed the revision filed by the petitioner exclude the land comprised in land S.No.803 from holdings of the petitioner's father and remanded the matter back to the second respondent to conduct inspection with regard to the huts and structures in the property as mentioned by the petitioner. The second respondent inspected the property and deleted the same from the holdings of the petitioner's father. His father made a representation on 24.03.1992 to take alternative land, instead of declaring the surplus land in Ponnomaravathi Village.

3. Without considering the above representation, the second respondent made a notification and declared the property to an extent of 7.76 acres in S.Nos.811/1, 811/2 and 443/9 as surplus. Again, the petitioner preferred a revision petition and the same was negated by an order dated 11.05.2001. The first respondent rejected the revision petition filed by the petitioner, thereby rejected the request for alternative land. There are two criteria to consider the alternative lands. The lands which are offered by the persons, should hold lawful rights to the said property. It should be free from all encumbrances from the third



parties, whereas, the land shown by the petitioner for alternative lands are in joint holdings with the third respondent herein and she had also objected to the declaration of such lands as surplus. Another land situated in Oliyamangalam Village was not held by the land owner, viz., the petitioner's father as on 15.02.1970. Further, it requires that, to accept the offer made by the petitioner in respect of alternative lands, it should be held by the land owner as on 15.02.1970 and should be free from all encumbrances. That apart, the lands declared are to be feasible for cultivation and eventual assignment, as per proviso to Section 10 (4) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961.

4. Now, the learned counsel for the petitioner submitted that he is ready and willing to give alternative lands. Therefore, this Court finds no merits in this Writ Petition.

5. Accordingly, this Writ Petition is dismissed. However, the petitioner is at liberty to approach the second respondent in respect of alternative lands. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Land Reforms, Chepauk,
Chennai - 5.
2. The Authorised Officer/
Assistant Commissioner,
Land Reforms, Trichy District,
Trichy.

+1cc to Mrs.A.L.Gandhimathi, Advocate, S.R.No.37981
+1cc to the Government Pleader, S.R.No.38810

W.P.NO.8144 OF 2004

PCH(CO)
PBS/09/09/2021