



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2021

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. No.8020 of 2012
and M.P Nos.1&2 of 2012

P.A.Vasudevan

...Petitioner

-Vs-

1. The Union of India,
Rep. by its Chief Secretary,
Secretariat, Puducherry.
2. Government of Puducherry,
Rep. by its Secretary,
Revenue Department,
Puducherry.
3. The Sub Collector (Revenue),
Authorised Officer, Land Reforms,
Puducherry.

...Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent relating to the proceedings bearing No.2978/SCRS/LR/C1/2008-09 dated 22.09.2009 quash the same and direct the respondents to restore the revenue records relating to the extent of 0.54.75 standard Hectares of land in R.S.No.99/2A/1 part, Cadastre No.219bis/1/2 of Thirukanchi village, Villiyanoor Commune, Puducherry.

For Petitioner : Mr. Abrar Mohamed Abdullah

For Respondents : Ms.V.Usha
Additional Government Pleader,
Puducherry.

ORDER

The Writ Petition has been filed to call for the records of the third respondent relating to the proceedings bearing No.2978/SCRS/LR/C1/2008-09 dated 22.09.2009 quash the same and direct the respondents to restore the revenue records relating to the extent of 0.54.75 standard Hectares of land in



R.S.No.99/2A/1 part, Cadastre No.219bis/1/2 of Thirukanchi village, Villiyanoor Commune, Puducherry.

2. The case of the petitioner is that he purchased the property ad measuring 4 Hectares and 28 Ares of Nanja land in re-survey Nos.99-2/A/1 in patta No.406 and R.S.No.100/1, 100/2 situated at Thirukanchi Village, Villiyanoor Commune of Puducherry Union Territory by the registered sale deed dated 05.01.2006 from one Suseela W/o.Palani vide document No.48 of 2006. The petitioner also purchased a land to an extent of one Kanis and 50 Kuzhies of Nanja land comprised in re-survey No.99-2/A/1 in patta No.406 from one Palani by the registered sale deed dated 05.01.2006, vide document No.49 of 2006. While being so, the third respondent claimed by an order dated 12.01.2010 that, the property to an extent of 1 Hectare 64 Acres and 25 Centiares equivalent to standard 54 Acres 75 Centiares has been declared as surplus land under the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act 1973 (herein after called as "the Act") and attempted to take possession of the said land.

3. The petitioner is being the subsequent purchaser, he did not know about the earlier proceedings and as such, he signed in the affidavit dated 07.03.2010 stating that he is surrendering the possession under the protest with a request that the land may be reverted to him. Thereafter, the petitioner obtained information under the Right to Information Act and it revealed that the third respondent by the impugned proceedings dated 22.02.2009 made a proclamation under Rule 22 of the Pondicherry Land Reforms (Fixation of Ceiling on Land and Determination of Surplus Land) Rules 1975 claiming that an extent of 1.64.25 ordinary Hectares equivalent to 0.54.25 standard Hectares declared as surplus in the holding of Pouline Savary W/o.Raymond Savary on 12.01.1976.

4. Further revealed that, the said Pouline Savary filed an appeal in L.T.C.M.A. No.3 of 1976 on the file of the Principal Sub Court, Pondicherry, contending that her holding does not exceed the ceiling limit fixed under the Act, since the lands in question have been partitioned between her and her children by the partition deed dated 23.12.1968. Accordingly, if the properties have been allotted to her children viz., Joeseline Savary and George Emile Savary, are excluded from her holding and the same will not attract the provisions of the Act. The said appeal was allowed by an order dated 10.03.1976, holding that if the lands allotted to her children, the same are excluded the holding of Pouline Savary and it would not attract the provisions of the Act. Aggrieved by the same, the Government had filed Revision before this Court and they provided only SR number before the authority concerned. However, the respondents herein failed to produce any interim order or final order passed



by this Court in the Revision Petition challenging the order passed in L.T.C.M.A. No.3 of 1976 on the file of the Principal Sub Court, Pondicherry.

5. While being so, the third respondent herein issued notice dated 14.08.2009 to the original owner viz., Pouline Savary seeking details of the proceedings. The said notice was returned unserved and therefore the third respondent declared the said land about 0.54.75 standard Hectare being surplus land belongs to the Government. That apart, the partition deed between the Pouline Savary and her daughter dated 23.12.1968 revealed that the land allotted to her children are excluded from the holding of Pouline Savary and then her holding is less than the limit prescribed under the Act.

6. On perusal of the impugned order also revealed that the original land owner failed to produce the order passed by this Court and the Government also failed to produce any order obtained by them before this Court as against the order passed in L.T.C.M.A. No.3 of 1976. Therefore, the third respondent came to the conclusion that the surplus land of the original owner required for public purpose and resolved to declare the same as surplus. Aggrieved by the same, the present Writ Petition has been filed with the above said prayer.

7. The learned counsel appearing for the petitioner submitted that even without knowing the fact of the revision filed by the first respondent, the third respondent ought not to have declared the said land as surplus land that too after the period of 33 years. Admittedly, the petitioner is a subsequent purchaser and all the revenue records mutated in his favour. Even then the third respondent failed to serve notice to the persons interested in the subject property. The Land Tribunal allowed the appeal filed by the original owner and excluded the surplus land which were declared by the respondent in favour of the original owner. After the period of 33 years, the third respondent cannot proceed further in the absence of any material evidence to show that the order passed by the Tribunal is set aside.

8. The third respondent filed counter and the learned Government Advocate appearing for the respondents submitted that as against the order passed by the land Tribunal in L.T.C.M.A. No.3 of 1976 dated 10.03.1976, the first respondent filed Revision before this Court. When it was pending, the third respondent after taking notice to the original owner declared the subject property as surplus. The petitioner is the subsequent purchaser and he purchased the property in the year 2006, knowing very well that already the subject property was declared as surplus. Further the petitioner has filed affidavit



before the Authorised Officer that he was well aware of the land reforms proceedings initiated against the original owner Pouline Savary and after completing all the required proceedings under the Act, the Authorised Officer had taken possession the surplus land on 12.01.2010 and he is willing to surrender the surplus portion of 1 Hectare 34 Acres and 60 Centiares out of the total extent of 3 Hectares and 21 Acres, which he was holding title in the scheduled property comprised in R.S.No.99/2A/1. He also requested GLR value for the remaining portion which is free from land reforms proceedings and as such GLR value was issued vide their office letter dated 09.03.2010. Except the above averments, there is no whisper about the order passed by this Court in the Civil Revision Petition, which was filed as against the order passed in L.T.C.M.A. No.3 of 1976.

9. Heard Mr.Abrar Mohamed Abdullah, learned counsel appearing for the petitioner, M/s. V.Usha Additional Government Pleader, appearing for the respondents.

10. Admittedly, as against the order passed by the Land Tribunal in L.T.C.M.A. No.3 of 1976 on the file of the Principal Subordinate Court, Pondicherry, the respondents had simply thrown out some papers before this Court and obtained SR number. Thereafter, they failed to number the Revision and therefore the order passed by the Tribunal has become final. On the strength of the partition deed dated 23.12.1968, the original owner Pouline Savary had filed an appeal and the same was allowed. Accordingly the land allotted to her children was excluded from the holding of Pouline Savary. Therefore her holding is less than the limit. Therefore, at any angle, the impugned order cannot be sustained that too after the period of 33 years from the date of the order passed in L.T.C.M.A. No.3 of 1976.

11. It is also curious to note that the impugned order passed on the ground that the order passed by this Court in the appeal preferred as against the Land Tribunal order was not received by the authority concerned. The land owner or the owner of the surplus land also failed to produce the order passed in the appeal. However, it is the duty of the respondents 1 & 2 herein to produce the order if any as against the order passed by the Land Tribunal. Therefore, the petitioner, being the purchaser of the property, or the original owner who succeeded in the appeal before the Land Tribunal, are need not to produce the order passed in the appeal preferred by the respondents 1 & 2. In view of the above discussions, the impugned order cannot be sustained and it is liable to be set aside.

12. Accordingly the order dated 22.09.2009 passed by the third respondent in proceedings No.2978/SCRS/LR/C1/2008-09 is hereby quashed. The respondents are directed to restore the



revenue records in favour of the petitioner herein within a period of two weeks from the date of the receipt of a copy of this Order.

13. In the result, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Secretary,
The Union of India,
Secretariat, Puducherry.
2. The Secretary,
Government of Puducherry,
Revenue Department,
Puducherry.
3. The Sub Collector (Revenue),
Authorised Officer, Land Reforms,
Puducherry.

+1cc to M/s.G.Sumithra, Advocate, S.R.No.43346
+1cc to the Government Pleader, S.R.No.43440

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and M.P Nos.1&2 of 2012

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