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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.1074 of 2015

and

M.P.No.1 of 2015

G.Gopal

...Petitioner

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary,
Department of Revenue,
Fort St.George,
Chennai - 600 009.
2. The Land Commissioner,
Ezhilagam,
Chepauk,
Chennai - 600 005.
3. The Assistant Commissioner (Land Reforms),
Jawans Bhavan, Gandhiji Road,
Erode.
4. The Assistant Collector,
Dharapuram,
Dharapuram Division.

(R3 SUBSTITUTED as per order
dated 29.03.2022 in
W.M.P.No.31122 of 2017 in
W.P.No.1074 of 2015)

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records and order of the second respondent dated 02.09.2014 in R.P.No.24 of 2013 confirming the proceedings of the third respondent in M.R.I.191S/17-70/A2 dated 23.11.2012 and quash the same and directing the respondents to exclude the lands in S.F.No.552 (Old No.514/5) of Chitravuthan Palayam Village, Dharapuram Taluk from the proceedings under T.N.Land Reforms (Fixation of Ceiling on Lands) Act 1961 as amended under T.N.Act 17/70.



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For Petitioner

: Mr.M.Ajmal Khan, Senior Counsel
for Mr.Antony Jesus

For Respondents
R1 to R3

: Mr.P.Sathish
Additional Government Pleader

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records and order of the second respondent dated 02.09.2014 in R.P.No.24 of 2013 confirming the proceedings of the third respondent in M.R.I.191S/17-70/A2 dated 23.11.2012 and quash the same and directing the respondents to exclude the lands in S.F.No.552 (Old No.514/5) of Chitravuthan Palayam Village, Dharapuram Taluk from the proceedings under T.N.Land Reforms (Fixation of Ceiling on Lands) Act 1961 as amended under T.N.Act 17/70.

2. The case of the petitioner is that the land to an extent of 88.93½ acres in Chittaravuthanpalayam Village, Dharapuram Taluk, Erode District belong to one Deivasigamani Gounder. He executed a Will on 14.07.1952 and settled the properties in favour of his four minor daughters. Thereafter the said Deivasigamani Gounder died on 13.05.1953, leaving behind his wife and daughters. A draft statement under Section 10(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 was published in Tamil Nadu Government Gazette dated 22.11.1978 and called for objections. It was also duly served to one Seethaiyammal who is the wife of late Deivasigamani Gounder. The said Seethaiyammal filed a detailed objection and requested that as per the Will, she should maintain the property on behalf of her minor daughters. After taking into consideration the contentions raised by the said Seethaiyammal, the Authorized Officer of Land Reforms passed an order that she is entitled to enjoy her entire properties and the daughters were also entitled to inherit the properties and as such the Authorized Officer declared 8.953 Standard acres as a surplus land.

3. Aggrieved by the same, the said Seethaiyammal filed an appeal before the Land Tribunal, which was dismissed on 27.11.1981. As against the order she filed Civil Revision Petition in C.R.P.No.422 of 1982 before this Court. This Court by an order dated 13.07.1983, allowed the revision and remitted the matter to the Land Tribunal for consideration. The Land Tribunal confirmed the order of the Assistant Commissioner (Land Reforms) and dismissed the appeal. Aggrieved by the same, she filed a revision in C.R.P.No.3334 of 1987 before this Court and



the same was transferred to Tamil Nadu Land Reforms Special Appellate Tribunal in TRP.No.333 of 1997, which was once again remanded to the Assistant Commissioner of Land Reforms to re-determine the holding of the land owner and others. Further, the Land Commissioner deleted an extent of 7.50 acres from the land owner's holding and declared only 6.878 acres as surplus and the final statement was published on 14.02.2006.

4. It is the further averment of the petitioner that the lands in issue were purchased by the petitioner from the daughter of Seethaiyammal. It is the contention of the petitioner that computing the lands, in toto, at the hands of Seethaiyammal is wrong and the lands should have been computed among all the three legal heirs. It is the further averment of the petitioner that the findings of the Land Commissioner that daughters have no right or interest in the properties of their father as per the Will is wholly incorrect and to that extent the order of the Land Commissioner is erroneous. In the revision filed before the Land Commissioner the petitioner requested to exclude the land in S.F.No.552 (Old S.F.No.514/5) which was included in the final notification issued by the third respondent. In spite of the submissions made, the second respondent rejected the request made by the petitioner vide impugned order dated 02.09.2014, and issued direction to the third respondent to demarcate and sub-divide the land in S.F.No.552/1 (Old No.514/5) and to identify the extent of lands which come under surplus and retainable portion. Challenging the same the petitioner filed this writ petition.

5. The learned counsel for the petitioner would submit that the petitioner and his brother purchased the land from the daughter of Seethaiyammal to an extent of 12.50 acres. It is the further submission of the petitioner that though the Land Commissioner had categorically directed the 3rd respondent to demarcate and sub-divide the field only to the extent of 3.77 acres, while allowing 8.73 acres as retainable portion at the hands of the petitioner, however, without any reason or rhyme, the said direction has not been followed by the 3rd respondent and the impugned order has been passed. Therefore, he submitted that this Court, by setting aside the impugned order, may direct the 3rd respondent to adhere to the order passed by the 2nd respondent.

6. Learned Addl. Government Pleader fairly conceded that the 2nd respondent had, in fact, allowed retention of 8.73 acres in favour of the petitioner, while directing the the third respondent to demarcate an extent of 3.77 acres of land, which alone is shown as surplus. Therefore, this Court may direct the 3rd respondent to comply with the orders passed by the 2nd respondent within the time frame fixed by this Court.



7. In view of the fair stand taken by the learned counsel appearing on either side, this Court, without going into the issue in detail, directs the 3rd respondent to comply in letter and spirit, the orders passed by the 2nd respondent by permitting the petitioner to retain the portion of 8.73 acres of land, while demarcating and sub-dividing the portion of 3.77 acres of land, which is held to be surplus lands at the hands of the petitioner. The 3rd respondent is directed to complete the aforesaid procedure within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above directions, this writ petition stands disposed of. Consequently, connected Miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
The State of Tamil Nadu,
Department of Revenue,
Fort St.George,Chennai - 600 009.
2. The Land Commissioner,
Ezhilagam,Chepauk,
Chennai - 600 005.
3. The Assistant Commissioner (Land Reforms),
Jawans Bhavan, Gandhiji Road,
Erode.
4. The Assistant Collector,
Dharapuram,Dharapuram Division.

+1cc to Mr.J.Antony Jesus, Advocate, S.R.No.21859

+1cc to the Government Pleader, S.R.No.21385

W.P. No.1074 of 2015
and M.P.No.1 of 2015

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NSK/23/06/2022