



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. Nos.1590 and 9251 of 2013
and M.P.No.2 of 2013
and M.P.No.1 of 2013

W.P.No.1590 of 2013:-

K.Govindaraj

...Petitioner

Vs.

1.The Land Commissioner,
Chepauk,
Chennai - 5.

2.The Assistant Commissioner (Land Reforms),
Erode.

3.Saraswathiammal

4.Ramathal

5.K.Duraisamy

...Respondents

W.P.No.9251 of 2013:-

Saraswathiammal

...Petitioner

Vs.

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

2.The Assistant Commissioner (Land Reforms),
Erode.

3.K.Duraisamy

4.K.Govindaraj

5.Ramathal

...Respondents



PRAYER in W.P.No.1590 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records from the file of first respondent made in RC.D1/R.P.No.12 of 2007 (Land Reforms) dated 05.09.2012 and second respondent made in G.O.5A and Ref. in Na.Ka.M.R.1/62R/17-70 dated 07.02.2007 and quash the same and further direct the first respondent to take possession the surplus lands as per G.O.Ms.No.3230 dated 14.08.1974.

PRAYER in W.P.No.9251 of 2013: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings RC.D1/R.P.No.12 of 2007 (Land Reforms) quash the order dated 05.09.2012 and direct the second respondent to re-determine the landholdings of late Rakkia Gounder in accordance with the provisions of the Act and the G.O.Ms.No.3230 Revenue Department dated 14.08.1974.

For W.P.No.1590 of 2013

For Petitioner : Mr.B.Kumarasamy, Senior Counsel
for Mr. D.Muthuselvam

For R1 and R2 : Mr.Yogesh Kannadasan
Special Government Pleader

For R3 : Mr.R.Asokan
For R4 : Mr.S.Gunalan
For R5 : No appearance

For W.P.No.9251 of 2013

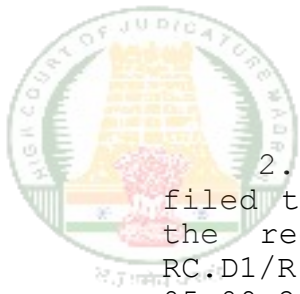
For Petitioner : Mr.R.Asokan

For R1 and R2 : Mr.Yogesh Kannadasan
Special Government Pleader

For R3 : No appearance
For R4 : Mr.B.Kumarasamy, Senior Counsel
for Mr. D.Muthuselvam
For R5 : Mr.S.Gunalan

COMMON O R D E R

The Writ Petition in W.P.No.1590 of 2013 has been filed to issue a Writ of Certiorarified Mandamus, to call for the records from the file of first respondent made in RC.D1/R.P.No.12 of 2007 (Land Reforms) dated 05.09.2012 and second respondent made in G.O.5A and Ref. in Na.Ka.M.R.1/62R/17-70 dated 07.02.2007 and quash the same and further direct the first respondent to take possession the surplus lands as per G.O.Ms.No.3230 dated 14.08.1974.



2. The Writ Petition in W.P.No.9251 of 2013 has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings RC.D1/R.P.No.12 of 2007 (Land Reforms) quash the order dated 05.09.2012 and direct the second respondent to re-determine the landholdings of late Rakkia Gounder in accordance with the provisions of the Act and the G.O.Ms.No.3230 Revenue Department dated 14.08.1974.

3. It is the case of the petitioner in WP No.9251/13 that the lands in Sadayapalayam Village, Dharapuram, devolved upon her and her sisters, who are the daughters of the landholder Rakkia Gounder, which lands were sought to be taken over by extending the provisions of the Tamil Nadu Land Reforms Act. Proceedings were initiated under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (for short "the Act") was initiated by issuance of draft statement and after calling for objections, the 2nd respondent negatived the objections and vide order dated 12.12.1990, declared an extent of 23.85 ordinary acres as surplus lands and final statement u/s 12 of the Act was published declaring an extent of 23.85 ordinary acres, equivalent to 13.629 standard acres as surplus.

4. It is the further case of the petitioner that as against the said order, revision petition was filed, which was dismissed against which S.R.P No.43/92 was filed before the Tamil Nadu Land Reforms Tribunal and the Tribunal, by order dated 4.11.1992 directed the 2nd respondent to consider the offer of alternative lands in the place of the lands, which were sought to be taken over. During the remand enquiry, though the petitioner brought to the notice of the 2nd respondent about the Government Order in G.O. Ms. No.3230 (Revenue) dated 14.8.1974 relating to the manner in which surplus lands have to be calculated, however, without advertng to the said Government Order, the 2nd respondent passed the order on 30.4.1997, which was once again challenged in R.P. No.55/98, which revision petition was dismissed on 11.12.2000 resulting in the publication of the final statement u/s 12 of the Act on 7.2.2007.

5. Against the said final statement, Pooraniammal, the sister of the petitioner filed R.P. No.12 of 2009. In the enquiry in the said petition, though it was pointed out about the necessity to apply G.O. Ms. No.3230 and calculation sheet was filed about the manner in which the land holdings have to be calculated and though prayer was made to recalculate the surplus, however, the 1st respondent, without appreciating the same, rejected the contentions of the petitioner holding that the Tribunal had precluded the petitioner from raising any other objection, vide its order dated 4.11.1992. Aggrieved by the said order, the present petition has been filed.



6. It is the case of the petitioner in W.P. No.1590 of 2013 that in respect of the lands, which devolved on the daughters of Rakkia Gounder, pursuant to the proceedings initiated under the Act, the son of the petitioner in W.P. No.9251/13 was entrusted in contesting the matter and believing him, the petitioner's mother had signed the papers, however, the same was fraudulently utilised, thereby, 17 acres out of the 19 acres of lands, which had devolved on the petitioner's mother was held to be surplus lands, which were allotted to the other two daughters by Rakkia Gounder. The lands which were allotted to the share of the other daughter, viz., Ramathal, the lands were sold to third party and the revision filed by the purchaser ended in his favour, however, the revision filed by the petitioner against the fraudulent act in and by which 17 acres of lands of the petitioner were declared to be surplus, were dismissed though the allegations raised by the petitioner as against the petitioner in W.P. No.9251/13 and her son were not denied by those persons in spite of their appearance before the Tribunal. Without appreciating the aforesaid facts, the 1st respondent rejected the revision petition filed by the petitioner in W.P. No.1590/13, aggrieved by which the said writ petition has been filed.

7. Though very many grounds have been raised by the respective petitioners in support of their case, however, at the time of argument, learned counsel appearing for the respective petitioners, submitted that though a pointed contention was raised that as per G.O. Ms. No.3230 dated 14.8.1974, the lands included in the Parambikulam Aliyar Project have to be treated as dry lands for the purpose of conversion to standard acre under the Act and surplus lands have to be calculated accordingly, yet, the 1st respondent has not given the benefit of the aforesaid Government Order and had wrongly calculated the lands and, therefore, this Court may direct the 1st respondent to redo the exercise of calculation by giving the benefit of G.O. Ms. No.3230 dated 14.8.1974 and the said exercise be completed within a particular time frame fixed by this Court.

8. On the above contentions, this Court heard the learned Special Government Pleader appearing for respondents 1 and 2 and also perused the materials available on record.

9. Insofar as the grounds raised in W.P. No.1590/13 by the petitioner relating to certain fraudulent acts, this Court is not inclined to go into the same as they pertain to disputed questions which cannot be gone into in this writ petition.

10. However, a perusal of the materials, more especially, the order passed by the 1st respondent reveals that the Government Order on which reliance has been placed upon by the petitioners seeking recalculation in respect of



the lands included in the Parambikulam Aliyar Project to be treated as dry lands has not been taken into consideration by the 1st respondent while passing the impugned order. In such circumstances, this Court is of the considered opinion that the petitioners may be permitted to file appropriate application before the authorities concerned for getting the benefit of G.O.Ms.No.3230 of 1974 dated 14.08.1974.

11. Accordingly, these writ petitions are disposed of directing the respective petitioners to file appropriate application before the Authorized Officer within a period of four weeks from the date of receipt of a copy of this order and on receipt of the said application, the Authorized Officer is directed to pass appropriate orders as expeditiously as possible, taking into consideration G.O. Ms. No.3230 dated 14.8.1974 on its own merits and in accordance with law and if any benefits accrue to the petitioners on applying the aforesaid Government Order if not applied, the same may be provided to the respective petitioners. Consequently, connected Miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The Land Commissioner,
Chepauk,
Chennai - 5.

2.The Assistant Commissioner (Land Reforms),
Erode.

+1cc to Mr.D.Muthuselvam, Advocate SR. No.21455

+1cc to Government Pleader SR. No. 21744

W.P. Nos.1590 and 9251 of 2013
and M.P.No.2 of 2013
and M.P.No.1 of 2013

JP II (CO)
PR (20/04/2022)