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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23799 of 2013

Shri.Bhoopathy

... Petitioner

Vs.

1.Union of India, Union Territory of Puducherry,
rep.by its Secretary to the Government,
Revenue Department,
Puducherry.

2.The Sub Collector - cum - Authorised Officer,
Office of Sub Collector (REvenue),
Land Reforms, Puducherry.

3.Shri.Murugavel

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus direction in the nature of a writ by quashing the taken over possession Notification No. 5398/SC (R) N/LR/08 dt 13.11.2008 quashing the same and consequently direct the 1st and 2nd respondents to return the land of two acres under Survey Cadastre No. 404 60/65 and 404 61/65 at Thengaithittu situated in Mudaliarpur Commune of Puducherry.

For Petitioner : Mr.J.James

For R1 and R2 : Mr.C.T.Ramesh
Additional Government Pleader

O R D E R

The petitioner has filed this petition for writ of Certiorarified Mandamus to quash the taken over possession Notification dt 13.11.2008 and consequently direct the 1st and 2nd respondents to return the land of two acres under Survey Cadastre No. 404 60/65 and 404 61/65 at Thengaithittu situated in Mudaliarpur Commune of Puducherry.



2. The case of the petitioner is that one R.K.Selvaraj, originally held certain extent of agricultural lands in excess of the limit specified under Section 4 of the Pondicherry Land Reforms (Fixation of Ceiling of Land) Act, 1973 (for short 'Pondicherry Act'). As a result, the Authorised Officer initiated proceedings to vest control of the excess lands and prepared a final statement in terms of Section 11 (1) of the Pondicherry Act and declared certain extent of lands, which was being held by the said R.K.Selvaraj, as surplus lands on 13.9.1978. Aggrieved by the same, the land owner R.K.Selvaraj, his wife and their son / 3rd respondent herein preferred an appeal in LT C.M.A. Nos., 4, 5 and 6 of 1978, which came to be dismissed against which he filed C.R.P. Nos. 2164, 2190 and 2191 of 1978 before this Court, wherein, this Court, partly allowed C.R.P. No.2164/1978 and dismissed the other two petitions vide order dated 13.10.1987. As a result, the Authorised Officer issued fresh draft statement in terms of Section 9 (1) of the Pondicherry Act on 28.9.1988, which was published in the Gazette of Pondicherry. On 4.4.1990, final statement under Section 11 (1) of the Pondicherry Act came to be published in the Pondicherry Extraordinary Gazette. After the publication of the final statement in terms of Section 11 (1) of the Pondicherry Act on 4.4.1990, the matter was put in cold storage for more than 18 years and, therefore, the said R.K.Selvaraj, for reasons best known to him, sold certain extent of lands to third parties on 18.9.06 by five sale deeds. Thereafter, on 2.12.08, notification under Section 17 (1) of the Pondicherry Act was published in the name of the said R.K.Selvaraj stating that the surplus lands are required for public purpose and as a result, the properties would vest with the Government. On 26.02.09, proclamation was issued under Section 17 (2) of the Pondicherry Act and publication of notification for possession in terms of Section 17 (4) of the Pondicherry Act was also issued. Aggrieved by the said land reforms proceedings, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that on 13.11.2008, nearly after 18 years of issuance of the notification under Section 17(1) of the Pondicherry Act, a notification was issued taking possession of the surplus land, including the two acres of land sold to the petitioner by the said Selvaraj during the year 1999. Even after issuance of notification, so far no compensation has been awarded. Moreover, when the petitioner took steps to sell the land, to his utter shock, he came to know that the subject land sold by the said



R.K.Selvaraj, was the subject matter of proceedings under the Pondicherry Act and that the respondents 1 and 2 have issued notifications taking over possession in the year 2008. As per Section 22 of the Pondicherry Act, if any person makes a transfer in violation of the provisions of the Act, the Government can take possession of the lands equivalent in area to the land from the possession of such land owner who have sold the lands in contravention of the provisions of the Act and therefore, the petitioner is entitled to claim benefit under Section 22(2) (a) of the Pondicherry Act and thereby the petitioner may be permitted to file an appropriate application before the 1st respondent and he is also ready to provide equivalent land, for the lands which was declared as surplus by the State Government to the 1st respondent. If such application is filed, the 1st respondent may be directed to pass appropriate orders.

4. The learned Additional Government Pleader (Pondicherry) appearing for the official respondents has drawn the attention of this Court to the detailed counter affidavit filed on behalf of the second respondent and submitted that the petitioner purchased the purported land from his wife Tmt.Gayathri, power agent of the said R.K.Selvaraj on 22.03.1999 vide Sale Deed and thereby Tmt.Gayathri, wife of the petitioner herein sold the land to her husband and subsequently, the writ petitioner converted the impugned land into plots and promoted as layout and sold the surplus land / purported land to the prospective buyers and the petitioner has suppressed these facts and came up before this Court with unclean hands. Further once the proclamation is issued under Section 17 of the said Act, the said lands stood vested with the Government and are free from all encumbrances and later it was converted into Government Poramboke. As per Section 34-A of the Pondicherry Act, the Government has the power to reserve land for other public purposes. In this regard, the Government Order vide G.O.Ms.No.02/2017, dated 02.02.2017, was issued by the Special Secretary (Revenue), Puducherry, Department of Revenue and Disaster Management, Puducherry for transferring of Government land to Transport Department for public purpose for setting up of Institute of Driving Training and Research (IDTR) in Puducherry under the aegis of Ministry of Road Transport and Highways. Therefore, the Authorised Officer (Land Reforms) had acted scrupulously upon the provisions laid down in the Pondicherry Act and no interference is required with the impugned order and hence prays for dismissal of this petition.



5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

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6. Facts in the present case is not in dispute that the Land Reforms proceedings were initiated under 'The Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 in respect of total agricultural land holding of the said R.K.Selvaraj, who is having more than the ceiling limit of 6 standard hectares as prescribed in the Pondicherry Act. In this regard, the then Authorised Officer (Land Reforms) had strictly followed all the procedure as prescribed in the said Act and published the notification of final statement under Section 11 in Form 10 vide Gazette No.66 dated 04.04.1990 and the notification of acquisition of surplus land under Section 17(1) of the said Act was published vide Gazette No.108 dated 02.12.2008 and subsequently the proclamation was issued vide order No.3017/SCRN/LR/09 dated 26.02.2009, by the then Authorised Officer (Land Reforms) under Sub Section (2) and (4) of Section 17 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 that the surplus lands are needed for public purpose and are deemed to have been acquired for public purpose and vested with the Government, free from all encumbrances with effect from the date of publication of notification of land under Sub Section 17(1) of the Act and as such it was transferred to the Transport Department, Puducherry for the public purpose. The Land Reforms Act was enacted to take over the surplus lands beyond the ceiling limit so as to distribute the same to landless and other persons in the rural areas. In fact, the final statement having been published in the year 1990, any sale, transfer or other dispossession of the land declared as surplus will be invalid in terms of Section 22(1) of the Land Reforms Act. In the present case, the purchase between the petitioner and the original owner is null and void, as on the said date, the lands stood vested with the Government. Such being the case, the relief sought for by the petitioner cannot be granted and this Writ Petition is liable to be dismissed.

7. Be that as it may, In view of the limited prayer sought for by the petitioner to claim the benefit under Section 22(2) (a) of the Pondicherry Act, this Court is inclined to permit the petitioner to file an appropriate application within a period of two weeks from the date of receipt of a copy of this order, before the 1st respondent for providing equivalent land, for the land which was declared as surplus by the State Government to



the 1st respondent. If any such application is filed, the 1st respondent is directed to pass appropriate orders within a period of twelve weeks thereafter, if law permits and the acquired land is not utilised. No costs. Consequently connected miscellaneous petition is closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

sk/GLN
To

1.The Secretary to the Government,
Union of India, Union Territory of Puducherry,
Revenue Department,
Puducherry.

2.The Sub Collector - cum - Authorised Officer,
Office of Sub Collector (REvenue),
Land Reforms, Puducherry.

+1cc to Mr.J.James, Advocate Sr.17921
+1cc to the Government Pleader Sr.18025

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