



W.P.(MD)No.7406 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.7406 of 2010

and

M.P.(MD)No.1 of 2010

M.Jegannathamoorthy

... Petitioner

versus

1. The District Revenue Officer,
Madurai.
2. The Assistant Land Commissioner,
Land Reforms,
Madurai.
3. The Thasildhar,
Tirumangalam Taluk.
4. Chellandi
5. Panneerselvan

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Certiorarified Mandamus, to call for



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the records of the second respondent dated 19.09.2002 in proceeding No.Mr.IV/319D/PYR, quash the same as the same is arbitrary, ultravires and direct the first respondent to issue patta in the petitioner's name in respect of the properties comprised in S.Nos.167/3A, 167/3C to an extent of 86 cents, 91 cents situated at Kuppulnatham Village, Peraiyur Taluk, Madurai District.

For Petitioner : Mr.R.G.Shankar Ganesh
For R1 to R3 : Mr.D.Gandhiraj,
Special Government Pleader
For R5 : Mr.R.Meenakshi Sundaram
For R4 : Dismissed for default vide
order dated 03.02.2011

ORDER

This writ petition is filed against the order of the Assistant Commissioner, Land Reforms, Madurai, dated 19.09.2002, in and by which, the properties of one Mouna Gurusamy were found to be excess lands under the Land Ceiling Act and the same has been taken over by the Government.



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2. The learned counsel for the petitioner submits that the lands in Survey Nos.167/3A, 167/3C, to an extent of 86 cents and 91 cents respectively situated at Kuppalnatham Village, Peraiyur Taluk, Madurai District, were purchased by the petitioner's father Mouna Gurusamy from one Krishnasamy Naidu, the power agent of Kamayanaicker. After the demise of Mouna Gurusamy, the petitioner, as the legal heir, inherited the abovesaid properties. While so, by the order impugned in this writ petition, the lands in survey No.167/3A, 167/3C were declared as surplus holding of S.K.M.K.R.Kamayanaicker under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 58/61 [hereinafter referred to as “the Act”] as notified under Section 18(i) of the Act published in Tamil Nadu Government Gazette dated 14.04.1994. According to the learned counsel for the petitioner, the lands were purchased in the year 1960, i.e. even before the enactment of the Land Ceiling Act and therefore, the order of the second respondent is not having any legal bearing.



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3. The learned counsel has also relied on the provisions under

Section 22 of the said Act, which is extracted as follows:

22. [Transfer or partition] made on or after the date of the commencement of this Act, but before the notified date – (1) where, on and after the date of the commencement of this Act, but before the notified date, any person has transferred any land held by sale, gift (other than gift made in contemplation of death), exchange, surrender, settlement or in any other manner whatsoever except by request [or has effected a partition of his holding or part thereof], the authorised officer with in whose jurisdiction such land, holding or the major part thereof situated may after notice to such person and other persons affected by such transfer [or partition] and after such enquiry as he thinks fit to make [declare the transfer or partition to be void if he finds that the transfer or the partition, as the case may be], defeats any of the provisions of this Act.

(2) For the purpose of sub-section (1), if any transfer or partition has the effect of reducing the extent of surplus land in excess of the ceiling area, such transfer or partition, whether bona fide or not, shall be construed



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as defeating the provisions of this Act.

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4. The learned counsel for the petitioner further submits that as per Section 3(11) of the said Act, the Act commenced from 02.10.1970. Notification under Section 18(1) of the Act was published in the Tamil Nadu Government Gazette on 14.04.1994. The petitioner's father purchased the said properties from the power agent of Kamayanaicker as early as on 28.09.1960. Therefore, these properties cannot be taken under the Land Ceiling Act. He further submits that the second respondent has passed the impugned order behind his back, without issuing any notice to him. In support of his case, he also relied on the sale deed registered as Document No.4997/1960, by which, the petitioner's father purchased the property in Survey Nos.167/3A and 167/3C and the encumbrance certificate issued by the Sub Registrar. His further grievance is that the lands are now assigned to ineligible persons.



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5. The learned Special Government Pleader appearing for the respondents 1 to 3 submits that an extent of land 901.81 acres of land was declared as surplus under the Tamil Nadu Land Reforms (Fixation and Ceiling (Land) Act 58/61 as amended by Act, 17/70, situated in the various villages including Kuppalnatham Village of Peraiyur Taluk, Madurai District by Notification under Section 18(1) of the Act published in the Tamil Nadu Government Gazette dated 14.04.1994. The land in question in S.Nos.167/3A, 167/3C to an extent of 86 cents and 91 cents respectively of Kuppulnatham Village, Peraiyur Taluk is also included in the list of surplus land and the same is vested with the Government by way of Notification. Thereafter, the Government has also initiated assignment proceedings with regard to the surplus lands and assignments were also made to landless agricultural labourers, namely, one V.Chellandi, S/o.Vellaisamy Thevar and one Paneerselvam, S/o.Ramasamy Naidu, as per Rule 5(i)(vi) of the Rules, vide proceedings dated 19.09.2002. The said lands are classified as Assessed Waste Dry in the revenue records and the Revenue Officials,



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after verifying the patta and other revenue records, recommended under the Act and the same has also been notified. He further submits that the petitioner has not raised any issue of ownership before the Land Reforms Authorities during the enquiry conducted in the year 1994 and he is raising the issue after a long delay and therefore, the claim made by him is barred by limitation.

6. This Court considered the rival submissions and also perused the materials placed on record.

7. The claim of the petitioner is that his father Mouna Gurusamy purchased the properties by way of a registered sale deed in the year 1960, even before the Notification of the Act. The petitioner has also taken a specific plea that no opportunity was provided to him before the notification issued by the respondents.

8. On the other hand, the 2nd respondent claim that the petitioner



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has not raised any issue of ownership before the Land Reforms Authorities during the enquiry conducted in the year 1994. However, there is no material placed before this Court to substantiate that there was an enquiry conducted as contemplated.

9. Therefore, on this limited ground of violation of principle of natural justice, the Writ Petition is allowed with a direction to the second respondent to conduct an enquiry by issuing a notice to the petitioner and take a decision on the plea raised by him, in accordance with law, within a period of four months from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No.

Internet: Yes / No.



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B.PUGALENDHI, J.

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