



W.P.(MD).Nos.6015 & 3969 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 11.08.2022

ORDER PRONOUNCED ON : 13 .09.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).Nos.6015 & 3969 of 2012

and

MP(MD).Nos.2 of 2012 and 2,3 & 4 of 2012

W.P.(MD).No.6015 of 2012

1.Mohamed Farook

2.Zarina Farook

3.Mohamed Siddique

.....Petitioners

Vs

1.The District Collector
Pudukkottai
Pudukkottai District

2.The Assistant Commissioner (Land Reforms)
Old Collector Office Building
Trichy

3.The Tahsildar
Pudukkottai
Pudukkottai District

4. Sulthan Mohaideen

5.Noorjahan Begam

6.Abbas Ajmeer Mohaideen

....Respondents



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1.Kesava Rao

2.Sankara Narayanan

...Petitioners

Vs

1.The Land Commissioner (Land Reforms)
Chepuk
Chennai – 5

2.The Assistant Commissioner (Land Reforms)
Old Collector Office Building
Trichy

3.The Sub-Inspector (Land Reforms)
Pudukkottai Section
Trichy

4.The District Collector
Pudukkottai
Pudukkottai District

5.The Thasildar
Pudukkottai
Pudukkottai District

6.V.Suriyaprakash

7.V.Kanagaraj

...Respondents.

(7th Respondent is impleaded vide Court order dated 05.08.2022)

Prayer in W.P(MD).No.6015 of 2012: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to change the patta relating to SF.No.558/2 of Sammattividhuthi



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Village, Pudukkottai Taluk and District in the name of the petitioners and respondents 4 to 6.

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Prayer in W.P(MD).No.6015 of 2012 : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the order of the second respondent in Na.Ka.Aa4/M.R. 4/204/17-70/Puduk dated 20.02.2012 and quash the same as arbitrary, illegal.

For Petitioners :Mr.K.Balasundharam
in both the petitions

For Respondents :Mr.N.Muthuvijayan
Special Government Pleader
For R1 to R3 in WP.No.6015 of 2012
& For R1 to R5 in WP.No.3969 of 2012

Mr.Arun @ Arunachalam
For R4 to R6 in WP.No.6015 of 2012

For R6- No appearance in WP.No.3969 of 2012

For R7 Mr.R.Sundar in WP.No.3969 of 2012

COMMON ORDER

WP(MD).No.6105 of 2012 has been filed seeking a writ of mandamus directing the third respondent to transfer patta relating to S.F.No.558/2, Sammattividuthi Village, Pudukkottai Taluk, in the name of the petitioners and respondents 4 to 6.



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2.WP(MD).No.3969 of 2012 has been filed challenging an order passed by the Assistant Commissioner (Land Reforms), Trichy on 20.02.2012 under which the authorities have directed the Sub Inspector (Land Reforms) to effect mutation in the Village and Taluk account as Government surplus Tharisu and send a report to him.

The learned counsel for the petitioners in WP(MD).No.6015 of 2012 has contended as follows:

3.The petitioners and the respondents 4 to 6 are said to have been purchased an extent of 16.39.50 Hectare in Survey No.558/2 from one Santha and his son under a registered sale deed dated 13.01.2005. According to the petitioners, the revenue records were also standing in the name of the vendors and thereafter, patta was also transferred in the name of the petitioners and respondents 4 to 6 by an order of the third respondent dated 27.11.2006. Thereafter, relevant entries were made in 'A' Register, Adangal and Chitta. The second respondent had issued an order regarding the properties purchased by them to change the classification as Government Ceiling Waste. Only thereafter, they came to know that the third respondent has unilaterally changed the patta granted in favour of the petitioners in the name of the second respondent without giving any notice or without hearing the



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petitioners about the property. Based on the unilateral communication sent by the second respondent, the third respondent has effected mutation in the revenue records without issuing notice to the writ petitioners in whose name patta was standing. Hence, the present writ petition has been filed seeking a writ of mandamus directing the third respondent to again change patta in the name of the petitioners and the respondents 4 to 6.

The learned counsel for the petitioners in WP(MD).No.3989 of 2012 has contended as follows:

4. Several survey numbers with a total extent of 336.55 acres originally belonged to the first petitioner's wife's ancestor namely A.Ragunatha Rao. In the year 1956, the sons of A.Ragunatha Rao namely R.Venkat Rao and R.Appusamy Rao have executed a release deed in favour of his father A.Ragunatha Rao. Thereafter, in the year 1960, the above said A.Ragunatha Rao has executed a registered statement dated 04.04.1960 by gifting five shares out of 25 shares in favour of one N.Venkatakrishna Rao, R.Venkat Rao and one Vaithiyanathasasthiri, retaining 1/5th for himself.

5. According to the petitioners, the said A.Ragunatha Rao had died in the year 1963 leaving his sons namely R.Venkat Rao and R.Appusamy Rao as his legal heirs. The Authorised Officer (Land Reforms) Trichy had issued a



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notification under Section 18(1) of Tamil Nadu Land Reforms (Fixation of Ceiling and Lands) Act, 1961 and the same was published in the gazette on 10.01.1980 declaring certain extent of land of R.Appusamy Rao as surplus as if R.Appusamy Rao is the exclusive owner of the properties in Sammatti Viduthi Village. The Authorised Officer (Land Reforms) Trichy has issued a notification under Section 18(1) after the death of Appusamy Rao and hence, the entire notification is null and void. The Authorised Officer has not chosen to issue notice to the legal heirs of Appusamy Rao. The Authorised Officer ignoring the registered document, had issued notice in favour of the Appusamy Rao who was not the owner of the property at that point of time.

6.The learned counsel for the petitioners had further contended that the said N.Venkatakrishna Rao died on 06.05.1980 leaving his wife Santha and one Suriyaprakash as his legal heirs. When the first petitioner's wife came to know about the wrong issuance of notification in favour of Appusamy Rao, submitted a representations to the first respondent. The said application was returned with an endorsement that she could renew her application after obtaining declaration that she is the legal heir of Appusamy Rao. The said Santha had approached the fifth respondent and obtained a legal heirs certificate and again approached the first respondent for stay of all further proceedings pursuant to the notification under Section 18(1) of Act 58 of



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1961. Again the first respondent had returned the representation with an endorsement to re-approach the second respondent namely the Authorised Officer after obtaining Succession Certificate from the competent authority. The said order was challenged in WP.No.8625 of 1983. The said writ petition was dismissed on 19.06.1990 granting liberty to the said Santha to approach the first respondent after disposal of A.S.No.1089 of 1989. Since the first petitioner's wife Santha had passed away, the present writ petition has been filed.

7.The learned counsel had further submitted that A.S.No.1089 of 1989 was dismissed on 14.08.1992, as against which L.P.A.No.38 of 1986 was filed. Citing the pendency of LPA.No.38 of 1986, the petitioners had requested the first respondent not to pass any order relating to mutation of revenue records. Without properly appreciating the facts, the first respondent has directed the third respondent to effect mutation of the revenue records. Hence, the present writ petition.

8.The learned counsel had further contended that the entire proceedings under Tamil Nadu Act 58 of 1961 has been taken after issuing notice to one Appusamy Rao on the misunderstanding that he is the absolute owner of the property. However, the said Appursamy Rao has no right,



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possession or title over the property and the property declared to be an excess land under Tamil Nadu act 58 of 1961. That apart, the said Appusamy Rao had passed away even on the date of issuance of notification under Section 18(1) of the Act.

9. In view of the above said facts, all the proceedings under Tamil Nadu Act 58 of 1961 are not legally sustainable and hence, the order impugned in the writ petition may be set aside and the writ petition may be allowed.

The learned Special Government Pleader had filed a counter and contended as follows:

10. The Notification under Section 18(1) of Tamil Nadu Act 58 of 1961 was issued on 30.01.1980. The said order has not been challenged in a manner known to law. Hence, the present writ petitions challenging consequential direction for effecting mutation of revenue records as Government excess land is not maintainable.

11. A notice was issued to the original owner namely Appusamy Rao in the year 1976 and he has received the same and sent a reply to the second respondent. Though the land owner did not appear for enquiry, but in his communication to the second respondent dated 06.08.1978, he has stated that



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he was in agreement with the particulars furnished in this schedule attached to No.4 notice except the variation in the area in Survey No.538. Only thereafter, the second respondent has passed the order on 31.08.1976. He had further contended that after notification, the compensation amount of Rs.63,000/- was deposited by the second respondent. The said amount was claimed by the Santha who is the wife of the first petitioner. The above claim of compensation by the said Santha was objected by Sri Raghu Ramana Anantha Trust and the said trust had filed O.S.No.112 of 1986 before the Subordinate court, Pudukkottai against the said Santha and the Authorised Officer. The same was decreed in favour of the trust. The decree was upheld in A.S.Nos.1089 of 1989 and 448 of 1992. Hence, it is clear that the said Santha did not have any right or title over the property, in view of the above said proceedings and she has also lost her right to claim compensation. The present petitioners being the purchasers from the Santha, they cannot claim any right or title over the property.

12.The learned Special Government Pleader had further contended that the said Santha had filed W.P.No.8625 of 1983 challenging the land reform proceedings. The said writ petition was dismissed giving liberty to the petitioners to work out her remedy in A.S.No.1089 of 1989. Hence, it is clear that the petitioners are attempting to indirectly challenge the Notification



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under Section 18(1) passed on 30.01.1980. He had further contended that the impugned communication dated 20.02.2012 is only an inter-departmental communication between the second and third respondents. Hence, without challenging the original notification under Section 18(1), the present writ petition is not maintainable. The respondents 4 to 6 are said to have purchased an extent of 40 acres and 50 cents in S.F.No.558/2 in the year 2005. In fact, a Notification under Section 18(1) of Tamil Nadu act 58 of 1961 has been published in the Gazette on 10.01.1980 itself. After the said notification, respondents 4 to 6 are said to have purchased the said property from the said Santha. Hence, the sale deeds are not valid in the eye of law. The original owner namely Appusamy Rao had addressed a letter on 30.11.2007 accepting that he is having excess land. After issuing notification, the petitioners cannot purchase the property from the said Santha, in view of the fact that she cannot deal the property after publishing the said notification. Hence, he prayed for dismissal of the writ petition.

13.I have considered the submissions made on either side and perused the materials available on record.

14.The writ petitioners have contended that they have purchased the properties from one Santha along with respondents 4 and 5 in the year 2005.



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According to the authorities, under Tamil Nadu Act 58 of 1961, a notification under Section 18(1) of the said Act has already been issued on 30.01.1980. Admittedly, the said notification has not been challenged in the writ petitions. Without challenging the said notification, it is contended that Section 18(1) Notification is not legally valid on the ground that notice has been wrongly issued to one Appusamy Rao who does not have any title over the property. As rightly contended by the learned counsel for the respondents that without challenging the notification under Section 18(1) of the Act in a manner known to law, the said contention cannot be raised by the writ petitioners.

15.The petitioners are said to have purchased the property from one Santha in the year 2005. The said Santha claims to be the daughter of one Venkata Krishna Rao. However, a dispute has arisen with regard to the receipt of compensation arising under the Land Reforms Act. The said dispute has resulted in filing of O.S.No.112 of 1986 by one Sri Raghu Ramana Anantha Trust as against the said Santha. The trust has specifically disputed the legal heirship of Santha.

16.A perusal of the Judgment in O.S.No.112 of 1986 in paragraph Nos. 19 and 20 of the said judgement clearly indicate that the said Santha is not entitled to the property, but only the plaintiff in the said suit namely Sri



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Raghu Ramana Anantha Trust was entitled to the property in dispute. The said judgment was challenged by the said Santha in A.S.No.1089 of 1989. Our High Court has dismissed the said first appeal on 14.08.1992 confirming the judgement and decree of the trial Court.

17.The learned counsel for the petitioners contented that L.P.A No.38 of 1986 as against the Judgement in A.S.No.1089 of 1989 has already been dismissed on 13.12.2000. Hence, it is clear that the said Santha is not the owner of the property in dispute even as per the judgement of our High Court dated 14.08.1992. Thereafter, the said Santha is said to have sold away the property in favour of the writ petitioners in the year 2005.

18.The survey number in dispute has been notified as surplus land under Tamil Nadu Act 58 of 1961 in the year 1980 itself. Hence, the said lands have got vested with the Government. Thereafter, the said Santha could never be considered to be the owner of the property so as to convey the same in favour of the writ petitioners in the year 2005. That apart, the Civil Courts have already held that the said Santha is not the legal heir of Venkatakrishna Rao so as to inherit the property after the death of Venkatakrishna Rao. The Civil Court had further found that the property belongs to one Sri Raghu Ramana Anantha Trust. In view of both these reasons, the purchase made by the petitioners in the year 2005 is not legally sustainable.



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19.The notification under Section 18(1) of Tamil Nadu Act 58 of 1961 has not been challenged in the writ petition. Once the said notification is accepted, the order impugned in W.P(MD).No.3969 of 2012 is only a consequential inter-departmental communication directing the subordinate officer to effect mutation of revenue records in favour of the Government. Hence, the writ petition is not maintainable and the same is liable to be dismissed.

20.As far as the prayer in W.P(MD).No.6015 of 2012 is concerned, it has been filed seeking mandamus for restoration of patta in favour of the writ petitioners. In view of the fact that the petitioners have not derived any title by way of sale deed executed by Santha and having not challenged the notification under Section 18(1) of Tamil Act 58 of 1961, the petitioners are not entitled to get patta restored in their names.

21.In view of the above said discussions, both the writ petitions are devoid of any merits and the same are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

13 .09.2022

Internet : Yes/No
Index : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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