IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

AND

THE HONOURABLE MR. JUSTICE P.B.BALAJI

WP.No.15363/1999

1.K.M.Selvakumar
2.M.Chandrasekaran
3.M.Shanmugasundaram .. Petitioners

Vs.

1.Director of Land Reforms,
Chepauk, Chennai 600 005.

2.The Authorised Officer &
Assistant Commissioner
[Land Reforms], Erode.

3.The District Revenue Officer
Land Tribunal, Thanjavur. .. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the Tamilnadu Land Reforms Special Appellate Tribunal, Chennai, made in SRP.No.43/1998 insofar as it relates to the proceedings of the 2nd respondent against the petitioners herein and quash the order dated 21.06.1999 made in SRP.No.43/1998 on the file of the Tamilnadu Land Reforms Special Appellate Tribunal, Chennai.

| | | |
|---|---|---|
| For Petitioners | : | Mr.P.Valliappan<br>Senior counsel for<br>Mr.N.Loganathan |
| For Respondents | : | Mr.Silambanan<br>Additional Advocate General<br>assisted by<br>Mrs.M.Geetha Thamaraiselvan<br>Special Govt. Pleader |

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

(1) This writ petition is filed challenging the order passed by the Tamilnadu Land Reforms Special Appellate Tribunal, Chennai, dated 21.06.1999 made in SRP.No.43/1998.

(2) Brief facts that are necessary for the disposal of this writ petition are as follows:

(3) The petitioners are the legal heirs and nephews of the couple, namely, Thiru.K.S.Thangamuthu Gounder and Tmt.Subbulakshmi

Ammal. It is admitted that the 2nd respondent initiated land ceiling proceedings against the family of their paternal uncle Thiru.K.S.Thangamuthu Gounder and his wife Tmt.Subbulakshmi Ammal. Though a larger extent of land was declared as surplus in the holdings of Thiru.K.S.Thangamuthu Gounder and Tmt.Subbulakshmi Ammal, it is stated by the petitioners that, finally an extent of 13.314 standard acres was declared surplus in the holdings of the petitioners' paternal uncle by name Thiru.K.S.Thangamuthu Gounder and another extent of 15.844 standard acres was declared as surplus in the holding of Tmt.Subbulakshmi Ammal. It is admitted that both the land owners, namely, Thiru.K.S.Thangamuthu Gounder and Tmt.Subbulakshmi Ammal, died on 30.08.1981.

(4) As against the order passed under Section 10[5] of Tamil Nadu Land Reforms [Fixation of Ceiling on Land] Act, 1961, [hereinafter referred to as 'the Act'] dated 24.04.1984, the petitioners who are legal heirs, preferred CMA.No.13/1985 before the Land Tribunal, Madurai. The Land Tribunal remitted the

matter to the 2nd respondent herein vide order dated 23.06.1987. it is stated by the petitioners that subsequently by order of 2nd respondent dated 28.07.1987, the net holdings of Thiru.K.S.Thangamuthu Gounder and Tmt.Subbulakshmi Ammal were redetermined and the surplus lands in the holdings of Thiru.K.S.Thangamuthu Gounder was held to be 9.861 standard acres and the surplus lands in the holdings of Tmt.Subbulakshmi Ammal was held to be 3.896 standard acres. It is stated that the petitioners preferred two appeals in LTCMA Nos.2 and 3 of 1988.

(5) From the affidavit filed by the petitioners in support of the writ petition, the petitioners have stated that the appeals stated to have been filed by the petitioners in LTCMA Nos.2 and 3 of 1988, were allowed and the matter was remitted to the 2nd respondent again with a direction to exclude the lands covered by two Sale Deeds bearing Doc.Nos.846 and 847 dated 14.01.1970 registered on 08.05.1970, and to reconsider the issue whether the extent of 7.88 acres which belonged to one Chandrasekaran and 2 others as per Document dated 25.06.1965 should be excluded from the holdings

of Thiru.K.S.Thangamuthu Gounder and Tmt.Subbulakshmi Ammal. As against the common order of the Land Tribunal, Madurai, in LTCMA Nos.2 and 3 of 1988 dated 12.01.1989, the 2nd respondent filed writ petitions in WP.Nos.230, 231 and 267/1993 before this Court which were later transferred to the Tamil Nadu Land Reforms Special Appellate Tribunal, Chennai, [hereinafter referred to as 'the Appellate Tribunal'] and renumbered as TRP.Nos.63 and 64/1995.

(6) The Appellate Tribunal, by order dated 21.08.1995, though confirmed the order of the remand passed by the 3rd respondent modified the same by directing the 2nd respondent to consider the genuineness of the two documents dated 14.01.1970. Therefore, the scope of remand was enlarged by Appellate Tribunal. After the order of Appellate Tribunal, the 2nd respondent held that the two documents dated 14.01.1970 registered on 08.05.1970 are genuine documents and that the lands covered under the Sale Deeds should be excluded from the holdings of transferors.

(7) Surprisingly, the petitioners raised a few other issues which have not been raised by them earlier. The 2nd respondent, however considered the issues and was unable to agree with the petitioners for reasons. Finally, it was held that an extent of 8.610 standard acres are surplus in the holdings of Thiru.K.S.Thangamuthu Gounder and an extent of 0.626 standard acres are surplus in the holdings of Mrs.Subbulakshmi Ammal. Aggrieved by orders passed by the 2nd respondent dated 24.01.1997, the petitioners preferred LTCMA.No.9/1997 before the 3rd respondent/Land Tribunal. Thereafter, the 3rd respondent after getting the inspection report, allowed the appeal filed by the petitioners by deciding issues which were not raised by the petitioners or their predecessors earlier. It was contended by petitioners that an extent of 2.70 acres in RS.No.134/1B was washed away by flood in Bhavani river, an extent of 1.69 acres was wrongly included and an extent of 3.97 acres which was sold subsequently but based on an Agreement prior to the cut off date should be excluded. These

contentions were accepted by 3rd respondent in his order dated 10.07.1997.

(8) The order of the 3rd respondent dated 10.07.1997 was challenged by the 1st respondent before the Appellate Tribunal in SRP.No.43/1998. The 1st respondent also filed a revision in SRP.No.44/1998 as against the order dated 24.01.1997. Both the revisions were heard together by the Appellate Tribunal and by a common order dated 21.06.1999, the Appellate Tribunal allowed SRP.No.43/1998 and dismissed SRP.No.44/1998. Aggrieved by the order of the Appellate Tribunal dated 21.06.1999 insofar as it relates to order in SRP.No.43/1998, the petitioners have filed the present writ petition.

(9) In the writ petition, several grounds are raised. It is to be noted that before the Appellate Tribunal, the petitioners have raised the following points to support the order of Tribunal in LTCMA.No.9/1997:-

(a) The lands covered by the documents dated 14.01.1970 should be excluded from the purview of the Act. Referring to the documents, the Appellate Tribunal held that the documents do not attract the provisions of Section 22 of the Act and therefore, the decision of the Authorised Officer in his order dated 24.01.1997 was held valid. The findings are in favour of petitioners in respect of the lands covered by the two Sale Deeds executed before the cut off date but registered after the cut off date. Hence, this is not an issue in this writ.

(b) The second point was regarding Documents No.561 and 562 dated 02.04.1970. Since the matter has been concluded by previous proceedings, the Appellate Tribunal found that they cannot be reopened before the Tribunal for the first time. Therefore, the order of the 3$^{rd}$ respondent/Land Tribunal dated 10.07.1997 held in favour of petitioners, was held to be invalid. It is pertinent to mention that the Sale Deeds are after the cut off date. However, they are sought to be saved on the basis of unregistered Sale Agreements prior to cut off date. Hence, the Special Appellate Tribunal rightly rejected the contentions of petitioners and held that the order of Tribunal is invalid.

(c) The third point raised before the Appellate Tribunal was that some of the lands having been washed away due to floods cannot be included in the holdings of the original owners. The submission was not appreciated by the Appellate Tribunal by giving valid reasons. Since the availability of lands as on the date of commencement of proceedings was not in issue, the Appellate Tribunal held that the proceedings which were validly initiated by showing the lands [allegedly washed away] in the holdings of the predecessors in interest of petitioners, cannot be faulted on the ground that a chunk of lands had been washed away.

(d) On the fourth point, the petitioners contended that the holdings of Tmt.Subbulakshmi Ammal was only 1.97 acres in a particular survey field and that an extent of 3.87 acres had been included in her holdings wrongly without reference to revenue records. This contention of the petitioners was gone into by the Appellate Tribunal with reference to all the documents and ultimately held that the original owners have themselves admitted the existence of an extent of 3.87 acres in S.No.138 as the lands belonged to Tmt.Subbulakshmi Ammal and that such new points cannot be allowed to be raised by petitioners who are just the legal heirs of the deceased owners.

(10) Mr.P.Valliyappan, learned Senior counsel appearing for the petitioners canvassed almost all the issues which were raised by the petitioners before the Special Appellate Tribunal. The prime submission of the learned Senior counsel for the petitioners is that the Appellate Tribunal while remitting the matter, has failed to consider several aspects as borne out from records and therefore, the scope of remand should be extended to consider all the points on merits. This Court is unable to agree with the submission of the learned Senior counsel appearing for the petitioner for the simple reason that the Appellate Tribunal has given elaborate reasons in support of its findings on every issue that was raised by the petitioners before the Appellate Tribunal.

(11) ***Per contra,*** Mr.Silambanan, learned Additional Advocate General appearing for respondents however referred to several documents and prior proceedings and submitted that there is no merit in the writ petition and therefore, the writ petition is liable to be dismissed.

(12) This Court considered the rival submissions and also perused the materials placed.

(13) Upon hearing the arguments advanced on either side, this Court finds no merit in any of the submissions of the learned Senior Counsel. The two Sale Deeds vide Doc.Nos.561 and 562 are dated 02.04.1970. The transfer is void and the contention that the Sale Deed was pursuant to an Agreement which was prior to the cut off date is unacceptable. The submission of the learned Senior counsel that a chunk of land was washed away and therefore, those lands cannot be included in the holding of the original owners, cannot be countenanced. Similarly, the conclusion of the Appellate Tribunal that petitioners cannot agitate issues which have become final, cannot be reagitated. It should be noted that the Appellate Tribunal

has specifically observed that the original owners, namely, Thiru.K.S.Thangamuthu Gounder and Tmt.Subbulakshmi Ammal, have admitted their holdings. The submissions of the petitioners before the Appellate Tribunal that the holding of Tmt.Subbulakhsmi Ammal in S.No.138 was only 1.97 acres, is not supported by any documents. However, the Appellate Tribunal pointed out that Tmt.Subbulakshmi Ammal has not objected when the draft statement was published on 24.07.1970. This Court finds no reasons to differ from the views of the Appellate Tribunal as regards holdings of Tmt.Subbulakshmi Ammal in S.No.138.

(14) In view of the foregoing reasons, this Court finds no merit in the writ petition. Accordingly, the writ petition stands **dismissed** confirming the order dated 21.06.1999 made in SRP.No.43/1998 on the file of the Tamilnadu Land Reforms Special Appellate Tribunal, Chennai.

(15) Learned Senior counsel appearing for the petitioners stated that time limit may be fixed for the 2nd respondent to pass final orders pursuant to the impugned order of Special Appellate Tribunal.

(16) Since the scope of proceedings now before 2nd respondent is limited, this Court directs the 2nd respondent to pass final orders strictly in accordance with the order of Special Appellate Tribunal, within a period of three months from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners. No costs.

[SSSRJ] [PBBJ]
09.02.2023

AP
Internet : Yes

To

1.Director of Land Reforms,
Chepauk, Chennai 600 005.

2.The Authorised Officer &
Assistant Commissioner
[Land Reforms], Erode.

3.The District Revenue Officer
Land Tribunal, Thanjavur.

S.S.SUNDAR, J.
AND
P.B.BALAJI, J.

AP

WP.No.15363/1999

09.02.2023