



W.P.No.16467 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.16467 of 2008
and
M.P.Nos.2 and 3 of 2008

M/s.Larsen and Toubro Limited,
Rep.by its Assistant Manager -
Industrial Relations,
ECC Division, 113 Mylam Road,
Sedarapet Village, Puducherry,
Union Territory of Puducherry.

... Petitioner

versus

1.Union Territory of Puducherry,
Rep.by the Secretary to Government,
Revenue Department,Puducherry.

2.The District Collector (Revenue) South/
Authorised Officer,
Villianur, Puducherry.

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying
to issue a Writ of Certiorari calling for the records of the second respondent
in its notice No.Nil, dated 29.1.2008 issued under Section 8(1) of the



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Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 and its subsequent summons dated 30.05.2008 and quash the same.

For Petitioner : Mr.R.Parthasarathy
Senior Counsel
assisted by Mr. Subhang P. Nair
and Mr. Surya Narayanan. N
for Mr. Rahul Balaji

For Respondents : Mr. Ramaswamy Meyyappan
Government Advocate (Pondicherry)

ORDER

This Writ Petition has been filed to quash the impugned notice dated 29.1.2008, issued by the second respondent under Section 8(1) of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 and its subsequent summons dated 30.05.2008.

2. It is the case of the petitioner that it is one of the largest Industrial Establishments in the country. The petitioner-Company purchased the lands ad-measuring total extent of 81 acres or thereabouts, in Sedarapet and Karasur Villages, Pondicherry. Subsequent to the aforesaid purchase of the



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said lands, the petitioner constructed a large factory buildings and established an Industry in the said lands, after obtaining necessary permissions from various authorities, which included permission for conversion of petitioner's land from agricultural to industrial purpose, planning permission, building permission, etc., and other necessary approval from the authorities under the Factories and Industrial laws. Further, the Pondicherry Industrial Promotion and Development and Investment Corporation Ltd., [PIPDIC] allotted an extent of 25,300 sq.mts in R.S.Nos.2 and 3/15 abutting the petitioner's land on annual licence for setting up an industry for manufacture of transmission line towers, vide order dated 23.01.1991. It is pertinent to state that all such approvals were granted between 1991 and 1999 and since the date of purchase and construction, the petitioner has been in continuous possession, enjoyment and occupation of the said lands and that the petitioner is paying the necessary statutory dues.

2.1 It is an indisputable fact that the public and Government authorities are well aware that the petitioner is the absolute owner of the aforesaid lands and the said lands have already been classified as "Industrial



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lands". It is the further averment of the petitioner that mutation of the Revenue Records in respect of the said lands in the name of the petitioner is under progress with the Revenue authorities. While so, it came to light that portion of the lands, which were in its possession and enjoyment since 1997, were under acquisition even without any notice or intimation to the petitioner, either as owner or as an occupier of the subject lands. Subsequently, the respondents, issued Declaration under Section 6 of the Land Acquisition Act, 1894 [for short 'the Act'] vide G.O.Ms.No.163, dated 29.12.2005, published in the first respondent's Official Gazette No.1, Extraordinary Issue, dated 2.1.2006, acquiring about 17 acres of land of the petitioner along with 1000 acres of other lands for setting up a Special Economic Zone [for short 'SEZ']. Further, the said Government Order also mandated the second respondent to take possession of the lands by invoking Section 17(1) of the Act, on the expiry of 15 days after the publication of notice mentioned under Section 9(1) of the Act.

2.2 Though the petitioner had been in continuous possession and enjoyment of the property since 1997 as owner as well as occupier of the



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property in question in terms of Section 9 of the Act, the petitioner was not served with the mandatory notice under Section 9 of the Act, which is a pre-requisite for taking possession in line with the emergency powers conferred upon the second respondent. It is the further averment of the petitioner that since the date of purchase till date, the petitioner was not served with notice of any kind nor was there any public notice of such acquisition in respect of the petitioner's property in the locality. Hence, the petitioner was constrained to approach this Court by filing a writ petition in W.P. No. 28610 of 2007 challenging the action of the authority concerned in seeking to acquire the lands of the petitioner herein. In the said writ petition, this Court, vide order dated 19.08.2007 granted interim stay of all further proceedings under the Act and restrained the respondents therein from interfering with the peaceful possession and enjoyment of the petitioner's subject lands.

2.3 This being the factual position, the petitioner has received a notice dated 29.01.2008 issued by the second respondent, purported to have been issued under Section 8(1) of the Pondicherry Land Reforms (Fixation of



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Ceiling on Land) Act, 1973 [for short 'Pondicherry Land Reforms Act, 1973'], alleging that the petitioner has failed to furnish a "Return" in respect of its holdings in the Union Territory of Puducherry with all the required particulars within the time specified in sub-Section (1) of Section 8 of the Pondicherry Land Reforms Act, 1973 and called upon the petitioner to prepare a "Return" to that effect on and from 24.01.1971 in Form-2 and deliver the same to the second respondent's office on 22.02.2008, failing which, the second respondent threatened that penal action would be taken against the petitioner under Section 52 of the Pondicherry Land Reforms Act, 1973. The action of the second respondent in bringing the petitioner's lands within the purview of the Land Reforms Act and thereby, taking over the petitioner's lands on the erroneous ground of surplus holding, is "*per se*" illegal for the reason that the Pondicherry Land Reforms Act, 1973 is applicable only to agricultural lands held by a person or entity and hence, the said Act is wholly inapplicable to the lands which are used for non-agricultural purposes.

2.4 The petitioner-Company, vide letter dated 21.02.2008, sought



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time for furnishing the details as called for by the first respondent.

Thereafter, the petitioner submitted a detailed letter dated 20.02.2008 to the second respondent and categorically informing the second respondent that the petitioner's lands do not come within the purview of the Pondicherry Land Reforms Act, 1973. However, the petitioner/Company also submitted a statement of their lands holdings in Form 2 and requested the second respondent to hold that the petitioner's lands are not attracted by the provisions of the Pondicherry Land Reforms Act, 1973. In the said letter, the petitioner also informed the second respondent that if the Department, for any reason, comes to conclusion that the said Act is also applicable to the petitioner's holding, the petitioner would be permitted to file necessary application under the Pondicherry Land Reforms Act, 1973, seeking permission of the first respondent for holding the entire lands for carrying on its industrial operations. Thereafter, the petitioner received summons dated 30.05.2008 from the second respondent, issued under Rule 12(2) of the Pondicherry Land Reforms (Fixation on Land, Compensation for and Disposal of Surplus Lands) Rules, 1975, calling upon the petitioner to appear in person before the second respondent on 12.06.2008 and produce



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all the required particulars in respect of the petitioner's land holdings and also for assessment of surplus lands held by the petitioner in excess of the ceiling limit. Immediately, on receipt of the said notice dated 30.05.2008, the petitioner submitted a letter dated 11.06.2008 to the second respondent seeking extension of time by four weeks for appearing in person and the second respondent has also granted extension of time till 14.07.2008. On a bare perusal of the summons, dated 30.05.2008 issued by the second respondent, it would reveal the fact that the second respondent, without even passing any order on the petitioner's reply to the second respondent's summons dated 29.01.2008, issued under Section 8(1) of the Pondicherry Land Reforms Act, 1973 and without even considering the petitioner's contention that the Pondicherry Land Reforms Act, 1973 is wholly inapplicable to the petitioner's land holdings, which are classified as lands used for the purpose other than the agricultural purposes, has arbitrarily and unlawfully proceeded further to take over the petitioner's lands, which are already the subject matter of earlier acquisition proceedings for industrial



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purposes. Challenging the said summons dated 29.01.2008 and subsequent summons dated 30.05.2008, the petitioner is before this Court.

3. Mr. R. Parthasarathy, learned Senior Counsel appearing for the petitioner-Company states that the subject lands are dry lands, which were purchased by the petitioner way back in the year 1997 for the purpose of carrying out industrial activities. While that being so, the authority concerned issued notification to acquire the subject lands under the Act purportedly for setting up SEZ. However, the respondents have totally forgotten the fact that the petitioner is one of the large industrial establishment in the country and the lands which were sought to be acquired, had already been put up in an industrial establishment, after getting permissions from the Government of Puducherry in furtherance of the Industrial Policy, 1997. Challenging the said acquisition proceedings, the petitioner had earlier filed W.P. No. 28610 of 2007 and this Court, by order dated 20.06.2022, set aside the acquisition proceedings, *inter alia*, on the ground that the lands of the petitioner have already been used for industrial purposes.

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4. Learned Senior Counsel appearing for the petitioner-Company further states that subject lands, which were specifically used for industrial purposes, were specifically let out of ambit of Section 2(16) of the Pondicherry Land Reforms Act, 1973. The main contention of the respondents is that the lands were acquired by the petitioner, after commencement of the Puducherry Land Reforms Act, 1973. However, the applicability of the Act is based on the usage of lands based on its classification in the Revenue Records. Further, now the respondents sought to disown the Industrial Policy, 1997 of the Government of Puducherry, stating that the said Industrial Policy was merely 'indicative', however, this stand taken by the respondents is only for the purpose of the present litigation. It is also pertinent to note that, in pursuance of Section 33(1) of the Puducherry Town and Country Planning Act, 1969 read with Rule 41 of the Puducherry Town and Country Planning Rules, 1974 [for short 'the Act, 1969'], a Comprehensive Development Plan for Puducherry, 2036 has been prepared for the entire Puducherry Planning Area comprising the Municipalities of Puducherry and Oulgaret and the Commune Panchayats of



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Villianur, Ariankuppam, Nettapakkam, Bahour and Mannadipet in accordance with the provisions contained in the said Act, 1969. The same was approved by the Government of Puducherry as required under Section 32 of the Act, 1969 vide G.O.Ms.No.21/2019-Hg., Puducherry, dated 31.10.2019, published in Extraordinary Gazette Part-I No.202, dated 31.10.2019.

5. Learned Senior Counsel further states that as per the land maps used in the said Plan of the year, 2036, the petitioner's lands were clearly marked as 'Industrial Zone'. Therefore, it is very clear that as per the Government's own records, the petitioner's lands are treated to be industrial lands. However, the respondents had taken a stand that in the Revenue Records, the petitioner's lands were shown as "agricultural lands", and such reflection of the lands in the Revenue Records are the sole basis on which the proceedings are to be invoked, which is clearly fallacious. For carrying out mutation of the Revenue Records, this Court in W.P.No.28610 of 2007, which was filed by the petitioner-Company challenging the land acquisition proceedings had given certain directions and allowed the petition by



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quashing the impugned Notification issued under Section 4(1) and consequential Declaration issued under Section 6 of the Act. The respondents failed to update the Revenue Records in respect of the petitioner's lands and taking advantage of their own wrong, now, they claimed that the Puducherry Land Reforms Act would be applicable due to the reflection in the Revenue Records. The petitioner's lands are being put to use for industrial purposes, which clearly ousts the applicability of the Puducherry Land Reforms Act, 1973 and the intention of the respondents is only take away the lands of the petitioner. The learned Senior Counsel further states that the petitioner's lands are being used for industrial purposes, which is also covered under SEZ. Therefore, the impugned notice and summons issued by the respondents are liable to be set aside.

6. In support of his contentions, the learned Senior Counsel relied upon the decision of the Hon'ble Supreme Court in the case of ***Central Warehousing Corporation Vs. Adani Ports Special Economic Zone Limited (APSEZL) and Others*** reported in ***2022 SCC Online SC 1398***, and



the relevant paragraphs are paragraph Nos.52 and 53 are extracted

hereunder :

‘52. We are of the considered view that it does not augur well for the Union of India to speak in two contradictory voices. The two departments of the Union of India cannot be permitted to take stands which are diagonally opposite. We may gainfully refer to the following observations made by a three-Judges Bench of this Court in the case of [Lloyd Electric and Engineering Limited v. State of Himachal Pradesh and Others](#)

“14. The State Government cannot speak in two voices. Once the Cabinet takes a policy decision to extend its 2004 Industrial Policy in the matter of CST concession to the eligible units beyond 31-3-2009, up to 31-3-2013, and the Notification dated 29-5-2009, accordingly, having been issued by the Department concerned viz. Department of Industries, thereafter, the Excise and Taxation Department cannot take a different stand. What is given by the right hand cannot be taken by the left hand. The Government shall speak only in one voice. It has only one policy. The departments are to implement the government policy and not their own policy.....”

53. We, therefore, impress upon the Union of India to evolve a mechanism to ensure that whenever such conflicting stands are taken by different departments, they should be resolved at the governmental level itself.”



7. Learned Senior Counsel appearing for the petitioner-Company also

relied on the decision of the Hon'ble Supreme Court in the case of *Harpal*

Singh Vs. Ashok Kumar and Another reported in (2018) 11 SCC 113. The

relevant paragraph is paragraph No.5, which reads as follows :

‘5. Section 3(13) of the Delhi Land Reforms Act defines the expression ‘land’ as follows:

“3.(13) “land” except in Sections 23 and 24, means land held or occupied for purpose connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming and includes –

(a) Buildings appurtenant thereto,

(b) Village abadis,

(c) Grovelands,

(d) Lands for village pasture or land covered by water and used for growing singharas and other produce or land in the bed of a river and used for casual or occasional cultivation, But does not include-

land occupied by building in belts or areas adjacent to Delhi town, which the Chief Commissioner may by a notification in the Official Gazette declare as an acquisition thereto;”

The position of law which has been consistently followed is that where the land has not been used for any purpose contemplated under the Land Reforms Act and has been built upon, it would cease to be agricultural land. Once agricultural land loses its basic character and has been converted into authorized/unauthorized colonies by dividing it into plots, disputes of plot holders cannot be decided by the revenue authorities and would have to be resolved by the civil court. The bar under Section 185 would not be attracted. This



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position of law has not been controverted in the present proceedings.”

8. Further, the learned Senior Counsel relied upon by an unreported judgment of the Hon'ble Supreme Court in the case of ***State of Bihar and Others Vs. Shyama Nandan Mishra [Civil Appeal No.7364 of 2014], dated 05.05.2022***. The relevant paragraphs are paragraph Nos.32, 33 and 34, which are extracted hereunder :

"32. To understand the legal consequences arising therefrom, useful reference can be made to R. V. Inland Revenue Commissioners, ex parte M.F.K. Underwriting Agents Ltd. (1989) where Lord Justice of Appeal, Thomas Bingham, while invoking fairness as a rationale for protecting legitimate expectations, expressed the following :-

“If a public authority so conducts itself as to create a legitimate expectation that a certain course will be followed it would often be unfair if the authority were permitted to follow a different course to the detriment of one who entertained the expectation, particularly if he acted on it. ... The doctrine of legitimate expectation is rooted in fairness.”

33. Another facet of denial of legitimate expectations is underscored by the Court of Appeal of England and Wales in the seminal case of Coughlan, where the Court preferred to use abuse of power as one of the criteria for testing whether a public body could resile from a prima facie legitimate expectation. In the Court's opinion, if the government authority induced an expectation which was substantive, the upsetting of that



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expectation, through departure from the expected course of action in the absence of compelling public interest, would be so unfair, that it would amount to abuse of power. In the present case, the abuse of power is discernible in the State's disparate decision in encadring the +2 lecturers with the teachers of nationalized schools, notwithstanding the contrary representation through the 1985 notification which created the +2 lecturer posts and the 1987 advertisement under which, the respondents entered service. Such manifest departure from the projected course smacks of arbitrariness and the government action, to selectively protect the interest of the BES cadre, does not conform to rules of justice and fair play.

34. Taking a cue from above, where the substantive legitimate expectation is not ultra vires the power of the authority and the court is in a position to protect it, the State cannot be allowed to change course and belie the legitimate expectation of the respondents. As is well known, Regularity, Predictability, Certainty and Fairness are necessary concomitants of Government's action and the Bihar government in our opinion, failed to keep to their commitment by the impugned decision, which we find was rightly interdicted by the High Court."

9. Mr.Ramasamy Meyyappan, learned Government Advocate (Puducherry) appearing for the respondents, by referring to the counter affidavit, states that the Authorised Officer-cum-Deputy District Collector (Revenue) South had initiated proceedings under Pondicherry Land Reforms Act, 1973 to acquire surplus holdings of lands held by the petitioner-



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Company at Sedarapet and Karasur Revenue Villages. Challenging the said acquisition, the petitioner-Company had filed the present writ petition and initially ad-interim interim stay was granted on 11.07.2008, with a direction not to pass final orders in the said acquisition proceedings. The main contention of the petitioner is that the subject lands are not agricultural lands, and those lands are classified as "industrial lands", as per the Industrial Policy, 1997 and that the provisions of the Pondicherry Land Reforms Act, 1973 could not be made applicable to the subject lands, and hence, the petitioner-Company had requested to withdraw the proceedings initiated by the authority concerned. He further states that as per the Revenue Records, it is found that the subject lands are classified as "agricultural lands" and accordingly, a draft statement issued under Section 9(1) of the Pondicherry Land Reforms Act, 1973 in Form -7/ Form- 8 was published by the second respondent in the Official Gazette of Puducherry vide No.14, dated 15.04.2014.

10. Learned Government Advocate (Puducherry) further states that the Industrial Policy, 1997 was formulated based on the Consultative



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Committee constituted for the purpose vide No.1.11018/1/94.Ind.A, dated 14.08.1996. After series of meetings of various Departments, the said Policy was finalised. The component of the Industrial Policy is to identify focus area/villages suitable for new Industrial Units. Accordingly, few areas/re-survey numbers were identified for the said purpose with the guidance of the Committee. The Director of Industries and Commerce has stated that the inclusion of policy does not have any implication for Land Reforms proceedings etc., as the same are independent and statutory in nature. Hence, the policy is indicative of the fact that the concerned Department/Agency has to issue an enabling G.O./Order for implementation of the said policy after examining all the issues in accordance with the applicable law. As such, it is not binding or over-riding the provisions of the Puducherry Settlement Act, 1970.

11. Learned Government Advocate (Puducherry) further contended that the classification of the property as to whether "agricultural" or "non-agricultural" or "residential" can be decided only based on the entries found in the Settlement Register maintained as per the provisions of the Puducherry Settlement Act, 1970. Hence, the lands identified for Industrial

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purposes as per Industrial Policy, cannot have over-riding effect to the settlement entries maintained as per the Settlement Act, 1970. Therefore, the identification of lands declared under Industrial Policy is non-statutory, but the classification of lands done as per the entries made in the Settlement Register is statutory. Therefore, as on date, the classification of the petitioner's lands is agricultural lands as per the Puducherry Settlement Act, 1970. Hence, the Industrial Policy, 1997 does not legally bind the proceedings initiated by the second respondent under the Puducherry Land Reforms, 1973. He further contended that the impugned notice/summon, which are now under challenge, calling upon the petitioner to furnish a "Return" in respect of its holdings in the Union Territory of Puducherry, but the petitioner without furnishing the Returns, now filed the present writ petition.

12. Heard both sides and perused the materials available on record.

13. The main contention of the learned Senior Counsel appearing for the petitioner-Company is that, originally, the subject lands were classified



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as "agricultural lands" as per the Puducherry Settlement Act, 1970, but subsequently, the said lands were converted for usage as "industrial purposes". As per the Industrial Policy, 1997, the subject lands are identified by the Government of Puducherry as "industrial area". Based on that, the petitioner-Company purchased the said lands only for industrial purposes. After obtaining various permissions from the Government, the petitioner-Company established the industry in the said lands. Therefore, the petitioner's lands are excluded from the operation of the Pondicherry Land Reforms, Act, 1973. The said Act is applicable only for "agricultural lands" within the meaning of Section 2(16) of the Pondicherry Land Reforms, Act, 1973. Though the petitioner's lands are sought to be acquired for establishing SEZ, the respondents failed to take a note that the petitioner-Company being the industrial concern, is already running an industry in the said lands. Further, the Pondicherry Land Reforms Act, 1973 is applicable only to the agricultural lands and hence, the Pondicherry Land Reforms, Act, 1973 is not applicable to the petitioner's land.

14. Per contra, the learned Government Advocate (Puducherry)



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appearing for the respondents states that as per the entries made in the Settlement Register based on the Puducherry Settlement Act, 1970, the petitioner's lands situated in Sedarapet and Karasur villages are classified as "agricultural lands" and hence, the Pondicherry Land Reforms Act, 1973 is very well applicable to the petitioner's land.

15. On a perusal of the materials produced by the petitioner-Company, it is seen that the subject lands were purchased only for non-agricultural purposes and the petitioner-Company is also running the industry in the said lands. Especially, on a reading of the Industrial Policy, 1997, it is seen that the survey numbers identified in Sedarapet and Karasur villages are industrial areas. Hence, the respondents cannot take a different version and say that the said lands are classified as "agricultural lands". Even assuming that, if at all the petitioner has not used the said lands, even though it falls under the "industrial area", the respondents have to physically verify the said lands and also produce the materials to prove that the petitioner-Company has not utilized the said lands for the industrial purposes and still they are utilising the lands for agricultural purposes. In



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case the respondents are able to prove that, even though the subject lands were identified as "industrial area", as per the Industrial Policy, 1997, but still the said lands are used for agricultural purpose, and hence, the Pondicherry Land Reforms, Act, 1973 would well be applicable to those lands, unless it is specifically proved the Act would not applicable to those lands.

16. The only question that now arises for consideration in the present case is as to whether the petitioner-Company established industry in the entire area or still the said lands are being used for cultivation, and it requires physical verification. When once, the subject lands were identified as "industrial areas" as per the Industrial Policy, 1997, those lands have been already converted from agricultural lands to industrial lands, and hence, the respondents cannot take a different stand that all permissions given by the Government of Puducherry or Industrial Policy, 1997 and subsequent to establishment of SEZ, which are only indicative or not, the statutory or non-statutory activities are not acceptable. If the Government's policy is against their own findings, then the documents cannot be accepted. Though the



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respondents have stated that, as per the entries made in Settlement Register based on the Pondicherry Settlement Act, 1970, those lands have been classified as "agricultural lands", the records produced by the petitioner show that subsequent to the said Settlement Act, 1970 the lands in Sedarapet and Karasur villages are converted as non-agricultural lands. Furthermore, as per the Industrial Policy, 1997, subsequent correspondences /communications of the Government of Puducherry clearly show that the lands have been converted as "non-agricultural lands". Therefore, the defence taken by the respondents that those lands are "agricultural lands" by relying on the Pondicherry Settlement Act, 1970 is not acceptable.

17. Further the Pondicherry Land Reforms Act, 1973 would be applicable only to "agricultural lands", so and as on date, the Revenue Record shows that the subject lands are classified as "agricultural lands", but however, the other correspondences show that the subject lands have been utilised for "non-agricultural purposes". If the respondents are able to prove that the lands are being utilised for "agricultural purposes" as classified, and shown in the Revenue Records, they can initiate fresh proceedings, but



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however, the different stands taken by the respondents are not acceptable.

Due to the classification mentioned in the Revenue records the nature of the lands, which is in use, should be taken into consideration to decide the matter. No doubt, the respondents would not give any permission for conversion of the subject lands from agricultural to industrial purposes for establishment of an industry, however, their own orders show that they have given permission to convert the lands from "agricultural" to "industrial" areas and also for establishing the "industry". Hence, they cannot take a stand that the Revenue Records show that those lands are classified as "agricultural lands" and that they were sought to be acquired only for industrial purposes. Further, the decisions cited supra referred by the learned Senior Counsel appearing for the petitioner, are squarely applicable to the present case.

18. In view of the above facts and circumstances and also considering the contentions of the both the parties, this Writ Petition is allowed. The impugned notice dated 29.01.2008 issued under Section 8(1) of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 and its



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subsequent summons dated 30.05.2008, are hereby quashed. However, if the respondents are able to establish that all the lands of the petitioner are not utilised for industrial purpose and some of the lands are utilised only for agricultural purpose they can initiate fresh proceedings to the extent of agricultural lands. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.12.2023

Note : Issue order copy on 29.01.2024

Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

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To

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

- 2.The District Collector (Revenue) South/
Authorised Officer,
Villianur,
Puducherry.



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