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W.P.No.14400 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14400 of 2016

and

W.M.P.Nos.12590, 12591 of 2016 & 37767 of 2017

R.Sathyannarayanan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep by its Secretary,
Department of Revenue,
Fort St. George,
Chennai – 600 009.
- 2.The Commissioner,
Land Reforms, Ezhilagam,
Chepauk, Chennai-5.
- 3.The Assistant Commissioner,
Tamil Nadu Land Reforms,
Villupuram Town & District,
- 4.The Revenue Divisional Officer,
Villupuram,
Villupuram District.
- 5.The Sub Registrar,
Mayilam Sub Registrar's Office,
Villupuram District.



6.A.Rajangam

7.P.M.Rajasekaran

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... Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 4th respondent in his proceedings No.A4/M.R.I/58R/Tin/17.70, dated 14.08.2015 and consequential notification issued by the 4th respondent in Government Gazette No.189, dated 01.09.2015 and quash the same.

For Petitioner	: Mr.C.Prakasam
For R1 to R5	: Mr.T.Venkatesh Kumar Special Government Pleader
For R6	: Mr.R.Veeramani

ORDER

The order impugned dated 14.08.2015 passed by the Authorised Officer / Revenue Divisional Officer, Villupuram is under challenge in the present writ petition.

2. The petitioner states that the subject property is belonging to his family. When the Government of Tamil Nadu initiated proceedings under the



provision of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 against 20.15 acres along with other lands an order under Section 9(2)(b) of the Act has been passed by the authority on 21.09.1974 proposing to declare an extent of 6.88 standard acres as surplus.

3. The grievances of the writ petitioner is that no notice was issued to his mother, as she was the owner of the property as per the settlement deed dated 23.03.1970. However, notice has been issued to the 7th respondent, who in turn preferred an Appeal before the Land Tribunal under Section 78 of the Act. The Land Tribunal set aside the order dated 21.09.1974 and thereafter, C.M.A.No.267 of 1974 was filed. The matter was remanded back to the Assistant Commissioner to issue notice to the Transferees and pass appropriate orders. The petitioner states that the Land Tribunal also passed orders without issuing any notice to the mother of the writ petitioner. Thereafter, C.R.P.No.564 of 1986 was filed, which was allowed and the 7th respondent preferred Civil Appeal before the Hon'ble Supreme Court of India in C.A.No.3273 of 1990. The said appeal was dismissed by the Apex Court on 20.08.1998 confirmed the order made in C.R.P.No.564 of 1986. In the mean time, based on the order passed under Section 10(5) of the Act, final



statement under Section 12 of the Act has been published in the Government Gazette on 10.12.1980. Notification under 18(1) of the Act was published on 17.10.1990, declaring that 20.15 acres equivalent to 6.86 standard acres as surplus.

4. The petitioner had exhausted the remedies contemplated under the Act by approaching the Court and the Apex Court also confirmed the declaration. In this context, the Revenue Divisional Officer, Villupuram filed counter affidavit and the relevant portion reads as under:

“Xii. After holding an enquiry and in the light of the provisions contained under section 22 of the Act and as per the judgment of the Hon'ble Supreme Court of India in C.A Nos.2542 to 2545/72 dated 04.05.1979, the Authorised Officer passed an order under section 22 of the Act on 24.09.1979 declaring the transaction effected by the landowner by way of gift to his sister Tmt.Suchithammal for an extent of 19.39 acres through Doct. No.288/70 dated 24.03.70 as void, as it reduces the holding of the landowner and the extent of surplus to be declared under the Act and thereby defeats the provisions of the Act.



XX. The 2nd respondent also in the revision petition filed by the 6th respondent has held in R.P No. 9/2015 dated 01.06.2015 that, the question of placing the lands settled to his sister Tmt.Suchithammal, the mother of the petitioner in the retainable holdings of the landowner, 7th respondent under Section 22 of the Act does not arise as the issue has been settled with the earlier orders of the Land Tribunal in LTCMA No. 121/80 dated 21.11.1981 where it is stated that the objection in this regard was not pressed which orders were passed subsequent to the orders under section 10(5) of the Authorized Officer and covering the order under Section 22 of the Act, that were passed after the orders of the Hon'ble Supreme Court of India in C.A Nos. 2542 to 2547/72 dated 04.05.1979.

XXiii. The Hon'ble First Bench of Madras High Court in its order dated 31.07.2014 has directed to distribute the excess lands to the eligible persons and accordingly, the 4th respondent passed orders on 14.08.2015 and distributed the lands to the eligible persons. Therefore all the contentions raised by the petitioners are devoid of merit and hence liable for dismissal.



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The Land Tribunal, subsequently, allowed the appeal in part in LTCMA No. 121/80 dated 21.11.1981 holding that the lands in S.No.176/7, 81/4, 88, 89 and 61/4A of Perumbakkam village are fit for casuarinas plantation and as such become eligible for exemption under section 73(viii) of the Act, in so far as the contention of the landowner on the grant of exemption and in respect of the contention of the landowner on exclusion of lands settled in favour of his sister Suchithammal from the holdings of the landowner, the Land Tribunal held that the objection was treated as not pressed, as the counsel for the landowner did not press this connection.

Against the above Judgment, State filed Civil Revision Petition before the Hon'ble High Court. The Hon'ble High Court in his Judgment in CRP. No.564/1986 dated 04.11.1988 allowed the Revision Petition filed by the State. The High Court while allowing the civil revision petition held that if a plea of exemption is not raised at the stage of the proceedings, under section 9, then, at a later stage of the proceedings, it is not open to the landowner to claim such exemption and that in this case, as



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seen already exemption was claimed, but not granted and that would not in any manner make any difference to the applicability of the principles of the decision, as, the respondent cannot, on the ratio of the decision, be permitted to re-agitate the claim for exemption at a later stage not having taken further proceedings against the order under section 9 of the Act negating the claim for exemption.

Against the Judgment of the Hon'ble High Court, the Petitioner filed Civil Appeal before the Supreme Court of India and Supreme Court of India in its Judgment in CA No. 3273/90 dated 20.08.1998 dismissed the appeal and confirmed the orders of High Court holding that “on a perusal of section 9 and 10 together, it is very clear that if an objection had been raised under section 9 and overruled by the authorized officer, the only remedy of the landholder was to challenge the order of the authorized officer by an appeal under section 78. It is not open to him to raise the very same objection at a later stage after the publication of the draft statement”.



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It is further submitted that in the mean time, the notification under section 18(1) of the Act was published in the Tamil Nadu Government Gazette dated 17.10.1990, after issue of orders of Government in GO. Ms. No.2029, Revenue dated 17.09.1990, declaring an extent of 20.15 Ordinary Acres equivalent to 6.86 Standard Acres as surplus. In the above notification, the lands settled to his sister Tmt.Suchithammal through Doct. No. 288/70 dated 24.03.1970 was notified as surplus.

With regards to the averments made in paragraph 7, it is submitted that Thiru. P.M. Rajasekaran, the 7th respondent is the landowner in this case against whose holdings Land Ceiling proceedings were initiated and the lands held by the landowner as on 15.02.1970 was taken into account while determining the holdings of the landowner. The lands settled to mother of petitioner was held by the landowner as on 15.02.1970 and therefore he is the land owner of disputed lands and hence he filed Civil Appeal in C.A No. 3273 of 1990 in the capacity as landowner. Therefore the contention of the petitioner that the Civil Appeal has been filed by the 7th Respondent



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representing himself as the owner of lands without informing the mother of the petitioner has no force and devoid of merit.

It is submitted that when the assignment proceedings were initiated to assign the lands notified as surplus as per the notification under section 18(1) of the Act dated 17.10.1990 by publishing notice in Form 'B' on 25.01.2002 inviting applications for assignment, the 7th respondent challenged the above said notification dated 17.10.1990 before the Land Commissioner under section 82 of the Act. The Land Commissioner in his order in R.P. No. 2/2002 (L.Ref.), dated 19.02.2003 has disposed the revision petition by directing the 1st respondent to correct the errors pointed out by the landowner with regard to the Survey Numbers, if he is satisfied that the mistake is bonafide and to take action under section 23 of the Act for the lands in S.F. No. 61/4A and 89 as against the contention of the landowner that there is a sale in S.F. No. 61/4A and 89 and to accept alternate lands if warranted to bring the records straight.



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9. (ii) *The Hon'ble First Bench of Madras High Court, in their Judgment in W.P. No. 22721/2013 dated 31.07.2014 was pleased to direct that:-*

- i. Respondent No. 6 will make full disclosure of the land alienated, post the notification to respondent No. 3 within a maximum period of fifteen days from today.*
- ii. The concerned authorities including respondent No. 3 will take steps to identify the landless poor who are entitled to the benefit of the land and this exercise should be completed within a period of two months from today.*
- iii. The excess lands be distributed to the eligible persons within a period of two months thereafter.*
- iv. A compliance report be filed in this Court with advance copy to the learned counsel for the petitioner on or before 16.12.2014.*

14) With regards to the averments made in paragraph 15 and 16 of the Writ Affidavit is



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concern, it is submitted that the 7th respondent challenged the final statement before the Hon'ble High Court in W.P No. 36257 of 2015 and the Hon'ble High Court dismissed the WP 36257 of 2015 dated 16.11.2015 as not maintainable with liberty to move the Land Commissioner by way of revision. Accordingly, a Revision Petition has been filed before the Land Commissioner against the orders of 4th respondent dated 14.08.2015 and against the final statement dated 01.09.2015. The 7th respondent was directed to file the appeal before the 4th Respondent as the order challenged is the order under Section 10(5) for which appeal lies before the Land Tribunal under Section 78 of the Act.”

5. The petitioner had a long battle and lost his case. The Courts upheld the actions of the authorities and accordingly, the land is to be distributed to the landless poor people. Since the petitioner has exhausted the remedies and the Courts also approved the actions initiated by the competent authorities under the Act, there is no scope for further adjudication of the grounds raised in the present writ petition.



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6. The authorities are bound to assign the lands only on merits and ascertain the eligibility of the persons. A thorough verification is to be done with reference to the income of the beneficiaries and also verify such beneficiaries do not possess any other property. The conditions stipulated under the scheme is to be followed scrupulously. In the event of any violation by the authorities, the Government is bound to initiate all appropriate actions against the officials, who all are committing such irregularities in the matter of assigning the Government land under the welfare scheme.

7. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

23.08.2023

Veda/Jeni
Index:Yes
Speaking order
Neutral Citation:Yes



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To

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Department of Revenue,
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S.M.SUBRAMANIAM, J.

Veda/Jeni

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