



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.09.2023

PRONOUNCED ON : 12.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10745 of 2020
and
W.M.P.Nos.13057 & 13059 of 2020

1.R.Manivannan

2.Tmt.Rajamani

3.R.Uma

... Petitioners

Vs.

1.The Land Commissioner,
Chepauk.

2.The District Collector,
Coimbatore.

3.District Revenue Officer,
Coimbatore North.

4.Revenue Divisional Officer,
Coimbatore North.

5.The Tahsildar,
Coimbatore North.



6. Assistant Commissioner,
Land Reforms, Erode.

7. Sub-Registrar,
Perianayakanpalayam,
Coimbatore.

8. R. Babachandrasekar

9. Ananda Jothi

10. S. Parthasarathy

11. Shanmugam

12. Selvi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Ref.No.D1/R.P.7/2006(L.Ref)(Restored) dated 18.02.2019 and quash the same and consequently direct the 6th respondent to carry out the corrections in the notification under Section 18(1) of the Act.

For Petitioners : Mr.V.Ramesh
For Mr.P.R.Balasubramaniam

For R1 to R7 : Mr.R.Ramanlaal
Additional Advocate General
Assisted by Mr.T.Arun Kumar
Additional Government Pleader

For R8 : No Appearance



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For R9 to R12

: Mrs.R.Pushpalatha
For Mr.C.Deivasigamani

ORDER

The order dated 18.02.2019 passed by the Land Commissioner is sought to be quashed in the present writ petition. Further direction is sought for against the 6th respondent to carry out the corrections in the notification issued under Section 18(1) of the Act.

PETITIONER'S CASE:

2. A Sale Deed in favour of Mr.R.Babachandrasekar and another for 1.98 acres was executed on 26.02.1968. 21.281 standard acres of surplus lands were found in the name of Mr.R.Babachandrasekar son of Mr.P.R.Ramakrishnan in Coimbatore and Chengelpattu Districts under the Tamil Nadu Act 17 of 1970. A Partition Deed was executed in favour of Mr.N.Rangasamy ad measuring 4.76 acres in Survey Nos.515, 516 and 518 Idikari Village, Annur Taluk, Coimbatore on 08.02.1971. Draft Statement under Section 10(1) was prepared and published in the Tamil Nadu Government Gazatte on 23.05.1979. Final Statement under Section 12 of



the Act was published in the Tamil Nadu Government Gazette on 19.03.1980 declaring an extent of 21.92 ordinary acres equivalent to 6.278 standard acres as surplus from holdings of Mr.R.Babachandrasekar.

3. The said Mr.R.Babachandrasekar filed Revision Petition under Section 82 of the Act before the Land Reforms Commissioner, Chennai. The Revision was dismissed. He filed W.P.No.8039 of 1982 against the order passed in Revision under Section 82 of the Act. The said writ petition was transferred from the High Court to Tamil Nadu Land Reforms Special Appellate Tribunal. The Appeal filed by Mr.R.Babachandrasekar was dismissed by the Land Reforms Special Appellate Tribunal. Subsequently, Notification under Section 18(A) of the Act was published in the Tamil Nadu Government Gazette on 05.11.1995, declaring surplus lands in the land of Mr.R.Babachandrasekar.

4. On 19.12.1995, the Government issued G.O.Ms.No.982. Subsequently, Mr.N.Rangasamy filed a Revision Petition against 18(1) Notification before the Assistant Commissioner to drop further action in the case of the land belonging to Mr.N.Rangasamy. Possession of the lands



were handed over to four persons on 17.02.1996. Notice was issued to Rangasamy on 26.02.1996. Mr.N.Rangasamy appeared before Assistant Commissioner, Coimbatore and submitted the 1971 Partition Deed. He raised a ground that the demarcation of surplus lands was wrong and submitted all revenue records. However, the Assistant Commissioner, Land Reforms, Coimbatore by order dated 04.04.1996 rejected the the claim of Mr.N.Rangasamy. Award proceeding was issued on 30.07.1999 by the Special Tahsildar, Adi Dravidar Welfare Award No.1/1999-2000. Mr.N.Rangasamy filed W.P.No.9289 of 2000 challenging the 4(1) Notification dated 12.06.2000.

5. The legal heirs of Mr.N.Rangasamy in the year 2002 filed Revision Petition under Section 11(3)(b) of Tamil Nadu Land Reforms Disposal of Surplus Land Rules, 1965 against the proceedings of the Assistant Commissioner dated 23.07.2002 assigning the surplus lands to the landless poor persons. Notice by Registered Post with Acknowledge Due (RPAD) was issued to all the parties. Notification under Section 18(1) was issued as per the report of the Special Revenue Inspector (Land Reforms) dated 17.01.1994 S.Nos.518/1A1B, 515/2, 516/2 were under the enjoyment of he



N.Rangasamy.

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6. The Special Deputy Tahsildar (Land Reforms) also submitted a report to the Assistant Commissioner that the said lands were registered in the name of Mr.N.Rangasamy as ancestral properties. Thus, it was stated that the lands, which were notified as surplus belonged to Mr.R.Babachandrasekar. Mr.N.Rangasamy requested the Assistant Commissioner to rectify the notification amendment to 18(1) notifications already published. Representation was sent to the Assistant Commissioner (Land Reforms), Coimbatore to issue errata to the notification as the lands in S.No.518/1 – 1.21 acres; 516 – 1.403/4 and 515 – 2.323/4 acres totalling 4.76 acres belonging to Mr.N.Rangasamy, but wrongly identified as surplus of the Mr.R.Babachandrasekar. Request was not accepted by the Assistant Commissioner. Mr.N.Rangasamy died on 25.03.2003 in Coimbatore. The contention of Mr.N.Rangasamy was that neither himself nor his father Mr.Narayanaswamy held lands in excess of the ceiling limit prescribed under the Land Ceiling Act. But wrongly his lands were identified and declared as surplus from the holdings of the land owner Mr.R.Babachandrasekar by mistake. Thus, the objections submitted by him



were not considered properly by the authorities.

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7. The assignees filed writ petition in W.P.No.23508 of 2007 and the said writ petition was dismissed. However, the land owner had not filed any writ petition nor contested W.P.No.23508 of 2007. The assignees filed writ appeal in W.A.No.1717 of 2017 and the Hon'ble Division Bench of this Court passed an order directing the Land Commissioner to dispose of the statutory proceedings as expeditiously as possible within a period of six months. The Land Commissioner conducted an enquiry and passed the impugned order without considering the documents and the claims of the petitioners, as to who all are the legal heirs of the Late Mr.N.Rangasamy. Thus, the petitioners are constrained to move the present writ petition.

8. The learned counsel for the petitioner relied on the judgment of the Hon'ble Division Bench of this Court in the case of ***E.A.Swamy Vs. The Land Commissioner, Madras – 5*** dated ***25th October, 1988***, wherein, the Hon'ble Division Bench made the following observations:

“4. Coming to the facts of the present case, the appellant has pleaded that his counsel was



only awaiting an intimation for a date to submit his arguments in support of the revision, which earlier got entertained and pending which stay was also granted, and the appellant had no notice about the attitude of the respondent to dismiss the revision as time barred, and the appellant was not even called upon to make his say on this question. We have no reason to disbelieve the said statement especially even at this appellate stage no counter affidavit has been filed on behalf of the respondents, rebutting the said statement. If the appellant had notice of the attitude of the respondent, the possibility of the appellant pleading for the exercise of suo motu power of revision on the part of the first respondent, putting forth a justification therefor on the facts of the case, cannot be ruled out. The appellant has in his revision put forth substantive and arguable points. He would contend that four items of lands shown in paragraph 3 of the revision petition belong exclusively to his major son and they should not be included in the holdings of the appellant. The appellant would contend that the said items do not belong to a joint family and no notice had gone to the major son of the appellant with regard to the



proceedings under the Act in respect of those items. The appellant would, further contend that seven items of lands shown in paragraph 4 of the revision petition belonged to his late wife and they had devolved on his married daughter and they should not be included in the holdings of the appellant. The appellant would put forth an alternative plea that if these seven items should be counted as coming within the holding of the appellant, only one-third of them should be included as done with regard to other items. The appellant would also say that there was no indication in the draft statement of the lands to be included within the ceiling area and the lands to be acquired as excess. The appellant also wants an opportunity to point out the lands to be retained by him. We are not in a position to brush aside the above points as lacking in substance. They require investigation into and adjudication upon merits. This is a fit case warranting the exercise of suo motu powers of revision by the respondent. It would be inappropriate to throw out a revision of the present nature on a technical plea of bar of limitation, applying the rigour of R. 62(i). In our view, there should be a consideration



of the revision on merits by the first respondent and there ought not to have been a throwing out of the revision on the technical plea of bar of limitation under R. 62 (i). The first respondent ought to have exercised the suo motu power of revision under R. 62 (i) of the rules. The time limit for exercise of suo motu power of revision under R. 62 (ii) of the Rules admittedly had not lapsed at the time when the revision was preferred and when the impugned order of the first respondent was passed. The period during which the proceedings got prosecuted before this Court naturally should stand excluded. Accordingly, we allow this writ appeal; set aside the order of the learned single Judge; allow the writ petition; quash the impugned order of the respondent and remit the matter back to the file of the first respondent for him to consider the revision on merits after affording an opportunity to the appellant to make his say in the matter. We make no order as to costs both in the writ petition and in this writ appeal.”



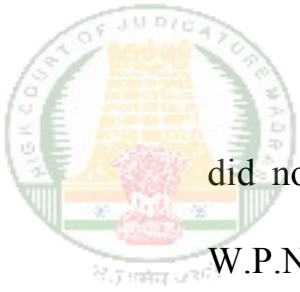
9. In the case of *The State of Tamil Nadu Vs. C.Chandra Mohan and Others* reported in (1986) 1 MLJ 382, wherein, this Court held as follows:

“3. Against the publication of the final statement under Section 12 of the Act, Venkatakrishnan and Chandramohan filed revision petitions before the Land Commissioner. The Land Commissioner dismissed the two revision petitions on 31.12.1976 on the ground that they had been preferred beyond the time limit of sixty days prescribed under the rules. In order to assail the dismissal of the revisions in the abovesaid manner, Venkatakrishnan and Chandramohan have filed W.P. Nos. 772 and 773 of 1977. Without giving reasons for sustaining the contentions of the writ petitioners, the learned single Judge has directed the Land Commissioner to condone the delay and take the revisions on file and dispose them of on merits. Since according to the State, there is no provision either under the Act or under the Rules framed thereunder for the delay being condoned, the learned single Judge's order is assailed and therefore these writ appeals have been filed.”

**REPLY ON BEHALF OF THE RESPONDENTS 9 TO 12:**

10. The learned counsel for the respondents 9 to 12 made a submission that they are the beneficiaries from and out of the lands held as surplus under the provisions of the Land Reforms Act. The Land Commissioner issued notification on 19.03.1990 against Mr.R.Babachandrasekar regarding surplus lands in Survey No.518/1B2 extent 1.74 acres and 516/2B extent in 1.05 acres totally 3.36 acres. One Mr.N.Rangasamy filed an objection before the Assistant Commissioner in the year 1996. Notice was issued to the father of the writ petitioner Mr.N.Rangasamy on 26.02.1996 and Mr.N.Rangasamy had not appeared before the Assistant Commissioner at the time of enquiry. Thus, the Land Commissioner issued a letter stating that Mr.N.Rangasamy had not proved his ownership in respect of the lands declared as surplus. An award was passed in favour of Late Mr.N.Rangasamy on 30.07.1999 in respect of the land in S.F.No.518/1B1 measuring 0.19.5 Hectares respectively.

11. An award amount of Rs.24,840 was determined. Thereafter, a notice under the Land Acquisition of the year 1894 was issued to Mr.N.Rangasamy by the Land Acquisition Officer, but Mr.N.Rangasamy



did not appeared before the Land Acquisition Officer. However, he filed W.P.No.9289 of 2000. Thereafter, Mr.N.Rangasamy died on 28.03.2003. Since the Land Commissioner set aside the proceedings of the Assistant Commissioner dated 23.07.2002, the respondents 9 to 12 herein filed W.P.No.23508 of 2007. The writ petition was dismissed by this Court on 25.09.2015. Writ Appeal in W.A.No.1717 of 2017 was filed and the Hon'ble Division Bench of this Court allowed the writ appeal. However, the Hon'ble Division Bench granted liberty to the petitioners herein to file Revision Petition before the Land Commissioner. Accordingly, the writ petitioners filed the Revision Petition, but failed to file condone delay petition as per the orders of the Hon'ble Division Bench in W.A.No1717 of 2017 and thus, the present writ petition is liable to be dismissed.

REPLY BY THE OFFICIAL RESPONDENTS:

12. The official respondents stated that the land owner Mr.R.Babachandrasekar son of Mr.P.R.Ramakrishnan held lands to an extent of 55.86 ordinary acres equivalent to 21.281 standard acres as on 15.12.1970 in Coimbatore and Chengalpattu Districts. Thus, the land owner was attracted under the provisions of the Tamil Nadu Reforms (Fixation of



Ceiling on Land) Act, 1961. The draft statement under Section 10(1) of the Act was published in the Tamil Nadu Land Government Gazatte dated 23.05.1979.

13. The Final Statement under section 12 of the Act was published in the Tamil Nadu Government Gazette dated 19.03.1980 declaring an extent of 21.92 Ordinary acres equivalent to 6.278 Standard acres as surplus. Subsequent to the final statement, notification declaring surplus land under Section 18(1) of the Act was passed and the same has been published in Tamil Nadu Government Gazette dated 15.11.1995. After declaration, the surplus land has been assigned to four eligible landless poor persons by the Assistant Commissioner (Land Reforms), Erode, in his proceedings No.MRIV/663/DT.17.02.1996 and possession was handed over to the assignees. After the process of assignment is completed, one Thiru. N.Rangasamy of Coimbatore District raised his objection before the Assistant Commissioner (Land Reforms), Erode against the assignment of the above lands, stating that these lands were owned by him and the Land Owner has no right over these lands.



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14. Against the order of assignment proceedings in MR.IV/663/G, dated 17.02.1996, Thiru. R.Manivannan Son of N.Rangasamy and three others have filed Revision Petition before the Land Commissioner under rule 11(3)(b) of the Tamil Nadu Land Reforms (DSL) Rules 1965. The Land Commissioner has allowed the Revision Petition in R.P.No.7 of 2006 dated 12.07.2006 and set aside the final statement under Sections 12 and 18 (1) and the consequently proceedings such as the assignment order and the demarcation in so far as in land were declared as surplus. Further, directed the Assistant Commissioner, Erode to identify the correct portion and declare the surplus suitably on the ground that the report of the field staffs clearly proves that the revision petitioner's father Thiru.N.Rangaswamy is the owner of the lands which were declared as surplus from the holdings of Thiru Babachandrasekar.

15. Aggrieved by the above order of the Land Commissioner, the assignees namely Ananda Jothi and three others have filed writ petition in W.P. No.23508 of 2007 and the High Court has dismissed the writ petition on 25.09.2015. Further, this Court has observed that the Land Commissioner had perused the report submitted by the Special Revenue



Inspector and Special Deputy Tahsildar, Land Reforms and then had passed the impugned order and directed the then Assistant Commissioner (Land Reforms), Erode to identify the correct portion of the Land owner's lands and declare the surplus land suitably.

16. Aggrieved by the order of the High court in W.P. No. 23508 of 2007, the assignees Ananda Jothi and three others have filed Writ Appeal in W.A.No.1717 of 2017 and the Hon'ble Division Bench of this Court has directed the Land Commissioner to restore the Revision Petition filed by Manivannan and three others and the appellants were given liberty to file an application for condonation of delay and further stated that it is open to the Land Commissioner to consider the application, filed for condoning the delay on merits, taking into account the reasons given by the appellants and to dispose it within 6 months from the date of order.

17. As per the directions of the Hon'ble Division Bench of this Court, in W.A.No.1717 of 2017, dated 01.02.2018, the Revision Petition has been restored in D1/R.P.No.7/2006 (Land Reforms). At the time of hearing, the counsel for the petitioners herein filed affidavit on behalf of one of the



Revision Petitioner Thiru R.Manivannan and other Revision Petitioners have not filed any affidavit till passing of this order. But the affidavit filed by Mr.R.Manivannan, the petitioner herein does not contain delay condonation petition. Since the petitioner had failed to file the condonation petition, the Revision Petition was dismissed on grounds of delay 18.02.2019. Against the order of the revision petition, the petitioner filed the present writ petition.

DISCUSSION:

18. The Government found that the land owner Mr.R.Babachandrasekar held to an extent of 55.86 ordinary acres, which is in excess under the provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. Thus, the draft statement under Section 10(1) of the Act was published in the Tamil Nadu Land Government Gazette dated 23.05.1979. Final Statement under Section 12 of the Act was published on 19.03.1986, declaring an extent of 21.92 ordinary acres equivalent to 6.278 standard acres as surplus. Notification declaring surplus land under Section 18(1) of the Act was published in the Tamil Nadu Government Gazette on 15.11.1995. After declaration, the surplus land had



been assigned to four eligible landless poor persons by the Assistant Commissioner (Land Reforms), Erode, in his proceedings dated 17.02.1996 and the possession was also handed over to the assignees. After completion of the process of assignment one Mr.N.Rangasamy of Coimbatore, raised an objection before the Assistant Commissioner (Land Reforms), Erode against the assignment of lands stating that the subject lands were owned by him and the land owner Mr.R.Babachandrasekar has no right over the lands. Challenging the order of assignment dated 17.02.1996 , the writ petitioner Mr.R.Manivannan and three others filed Revision Petition before the Land Commissioner under Rule 11(3)(b) of the Tamil Nadu Land Reforms (DSL) Rules, 1965. The Land Commissioner allowed the Revision Petition on 12.07.2006 and set aside the final statement made under Section 12 and 18(1) of the Act.

19. Aggrieved by the order of the Land Commissioner, the assignees namely Ananda Jothi and three others have filed writ petition in W.P.No.23508 of 2007 and the Hon'ble Division Bench of this Court directed the Land Commissioner to restore the Revision Petition filed by Mr.R.Manivannan and three others by giving liberty to them to file a



petition for condonation of delay, which was directed to be decided on merits. Pursuant to the directions issued by the Hon'ble Division Bench of this Court, the Revision Petition was restored by the Land Commissioner and after hearing the parties, the said Revision Petition was dismissed on the ground that the petitioner did not file any condonation of delay petition. Consequently, the Revision Petition was dismissed on the ground of delay on 18.02.2019.

20. The petitioners / legal heirs of Late Mr.N.Rangasamy are claiming ownership on the ground that the original owner of the subject land acquired it from Mr.R.Babachandrasekar, who had purchased the property vide sale deed dated 26.02.1968. The father of the writ petitioners Mr.N.Rangasamy claims that the partition deed was executed in his favour on 08.02.1971. Though the father of the writ petitioner Mr.N.Rangasamy states that he acquired the land through partition deed dated 08.02.1971, he has not stated about the relationship between himself and Mr.R.Babachandrasekar.

21. Admittedly, draft statement was published in the Tamil Nadu Government Gazatte in the year 1979 and final statement under Section 12



of the Act was issued on 19.03.1980. The lands declared as surplus were distributed to the landless poor people in the year 1996 itself. With this background, the Land Commissioner ascertained the fact that the Land Commissioner in proceedings dated 12.07.2006 allowed the Revision Petition by setting aside the final statement issued under Section 12 of the Act and notification issued under Section 18(1) of the Act already published in the case of the land owner Mr.R.Babachandrasekar. Direction was issued to the Assistant Commissioner, Coimbatore to identify the correct portion and declare the surplus lands suitably on the ground that the documents report of field staff is clear proof that the Revision Petitioner Kandasamy is the owner of the subject lands in Idikarai Village of Coimbatore District. The matter went up to the Hon'ble Division Bench of this Court and a direction was issued to decide the Revision Petition on merits afresh. The petitioners were granted liberty to file a condone delay petition. However, the petitioners have failed to file the condone delay petition and consequently, the Land Commissioner rejected the Revision Petition merely on the ground of delay.



22. Admittedly, the father of the petitioners Late Mr.N.Rangasamy had raised an objection in the year 1996 itself, soon after the distribution of the surplus lands to the landless poor persons. Declaration under Section 18(1) of the Act was made in the name of Mr.Babachandrasekar and admittedly not in the name of Mr.N.Rangasamy. Thus, Mr.N.Rangasamy filed Revision Petition, which was allowed initially with a finding that the documents report of field staff clearly proves that the revision petitioners father Mr.N.Rangasamy is the owner of the lands in SF.No.515/2B, 516/2B, 518/1B2 in Idikarai Village of Coimbatore District, which were declared as surplus from the holdings of the land owner Mr.R.Babachandrasekar.

23. When such finding had been made by the Land Commissioner in order dated 12.07.2006 and thereafter, the writ petition and writ appeal were filed and the matter was remanded back to the Land Commissioner, he is expected to decide the issues on merits. However, the Land Commissioner dismissed the Revision Petition merely on the ground of delay. The delay was not condoned on the account of the fact that the petitioners herein have not filed any petition to condone the delay. The father of the writ petitioners was continuously raising objections on the ground that the surplus land was



wrongly demarcated and the land belonging to Mr.N.Rangasamy was assigned in favour of the beneficiaries. Such being the nature of claim an adjudication on merits is of paramount importance and error if any occurred, while demarcating the surplus land, is to be identified.

24. Since the impugned order has been passed merely on the ground of delay, this Court is inclined to remand the matter for fresh adjudication on factual merits, including the ground of delay.

25. Right to Property is a Constitutional Right under Article 300-A of the Constitution of India. Such a right can be taken away only by the Authority of Law. An iota of doubt regarding the ownership or title is to be determined with reference to the documents, evidences and on merits. While so, rejecting the Revision Petition on the ground of delay in the present case, may not be appropriate, since the father of the writ petitioners Mr.N.Rangasamy was all along agitating the matter.

26. In view of the facts and circumstances, the order impugned passed by the 1st respondent in Ref.No.D1/R.P.7/2006(L.Ref)(Restored) dated



18.02.2019 is quashed and the matter is remanded back to the Commissioner of Land Administration / 1st respondent for fresh adjudication on merits and in accordance with law. The 1st respondent shall conduct an enquiry by affording opportunity to all the parties and decide the issues on merits and in accordance with law and pass final orders preferably within a period of twelve (12) weeks from the date of receipt of a copy of this order. The respective parties are directed to co-operate for earlier disposal of the proceedings by avoiding unnecessary adjournment on flimsy grounds. The non-cooperation if any may be recorded in the proceedings.

27. With the above directions, this Writ Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

12.09.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



To

- 1.The Land Commissioner,
Chepauk.
- 2.The District Collector,
Coimbatore.
- 3.The District Revenue Officer,
Coimbatore North.
- 4.The Revenue Divisional Officer,
Coimbatore North.
- 5.The Tahsildar,
Coimbatore North.
- 6.The Assistant Commissioner,
Land Reforms, Erode.
- 7.The Sub-Registrar,
Perianayakanpalayam,
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S.M.SUBRAMANIAM, J.

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