IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 08.11.2023

Orders Pronounced on : 22.12.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.37371 of 2016
and
W.M.P.No.32027 of 2016
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1. M.V.Parvathiammal
2. Shantha Kumari .. Petitioners

Vs.

1. Commissioner for Land Reforms,
Ezhilagam, Chepauk,
Chennai-600 005.

2. Sub-Collector, Pollachi. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the Commissioner of Land Reforms, Chepauk, Chennai-600 005, dated 02.09.2016 and made in R.P.No.3 of 2016 (L.Ref.), the first respondent herein and quash the same.

For petitioner : Mr.N.Damodaran

For respondents: Mr.V.Veluchamym, Addl.G.P.

ORDER

The petitioner has filed the above Writ petition praying for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the Commissioner of Land Reforms, Chepauk, Chennai-600 005, dated 02.09.2016 and made in R.P.No.3 of 2016 (L.Ref.), the first respondent herein and quash the same.

2. The facts of the case of the petitioner, is as follows:

(a) The second petitioner is the daughter of the first petitioner. The property comprised in S.No.192, Ramapattinam Village, Pollachi Taluk, Coimbatore District, totally an extent of 32.27 acres, along with other extent of properties, originally belonged to Late M.Rangasamy Gounder. The said M.Rangasamy Gounder executed a registered settlement deed, dated 25.02.1959, registered as Doc.No.246 of 1959 on the file of the Sub-Registrar, Pollachi, settling the aforesaid property in favour of his wife R.Ponnammal as a Sridhana property and the Patta Number of the property is 1158.

(b) Proceedings were initiated by the Land Reforms Authorities under the provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act,1961, as amended by the Tamil Nadu Act 17 of 1970, with respect to the holdings of Rangaswamy Gounder, son of Muthusamy Gounder and it was found that as on 15.02.1970, he was holding an extent of 79.70 ordinary acres equivalent to 24.876 standard acres and after deducting an extent of 18.14 ordinary acres equivalent to 5.263 standard acres (as per the order passed by the Land Tribunal and other authorities under the said Act in various proceedings), an extent of 14.02 ordinary acres equivalent to 4.673 standard acres, were declared as surplus lands within the holding of the said Rangasamy Gounder.

(c) Mrs.Ponnammal was allowed to retain her lands secured by her through Stridhana properties from her husband by way of registered settlement deed, dated 25.02.1959 in an extent of 18.05 ordinary acres equivalent to 6.016 standard acres. Necessary orders were passed to that effect by the Authorised Officer and Assistant Commissioner (Land Reforms), Coimbatore in Ref.41R/MR-I/17-70/C, dated 25.08.1989 under Section 10(5) of the said Act. By the said proceedings, the said Authority directed the land owner to furnish the list of lands to be declared as surplus which are free from encumbrances and suitable for easy and convenient enjoyment of the assignees.

(d) In the meantime, the said Mrs.R.Ponnammal, wife of Rangaswamy Gounder, who was in possession and enjoyment of the property, subject matter of settlement by her husband as the absolute owner thereof, executed a settlement deed, dated 14.12.1979 and registered as Doc.No.1214 of 1979 on the file of the Sub-Registrar, Pollachi, in favour of Mr.M.V.Rathinavelu, the son of her husband's brother, with regard to the property comprised in S.No.192/1, Ramapattinam Village, Pollachi Taluk, Coimbatore District, out of love and affection in an extent of 18.05 acres out of 32.21 acres on the Southern side of the aforesaid property.

(e) After the said settlement, the said property has been sub-divided as S.No.192/1A1 and Patta No.289 was assigned to the said property. The said M.V.Rathinavelu died on 29.02.1980 and on his death, his Estate was inherited by the first petitioner as the mother of the deceased. After such inheritance, she sold some extent of the aforesaid lands to various third party purchasers for valuable sale consideration. The first petitioner found that the lands inherited by her from his son was wrongly included within the holdings of the original land owner Rangasamy Gounder and consequently, his wife Ponnammal surrendered the aforesaid lands towards surplus declared against the holdings of Rangasamy Gounder.

(f) As soon as she came to know about the said wrong inclusion of her lands within the holdings of Rangasamy Gounder and the subsequent surrender by his wife, she questioned the final order passed under Section 10(5) of the Act by the Authorised Officer and the Notification issued by the Government under Section 18(1) of the Act 58 of 1961, as amended by Act 17 of 1970 by filing Special Revision Petition No.81 of 1992 on the file of the Land Reforms Special

Appellate Tribunal, Chennai. The Tribunal, by order dated 17.09.1998, while setting aside Section 10(5) order and the Notification issued by the Government under Section 18(1) of the said Act, remanded the matter to the Assistant Commissioner (Land Reforms), Erode for fresh disposal after giving effect to various directions passed by the Tribunal and this Court in the previous proceedings as well as in the present proceedings. By the said order, the Tribunal further directed the Assistant Commissioner (Land Reforms), Erode to hear all the interested persons before passing fresh orders under Section 10(5) of the Act and the selection of surplus lands shall be decided after giving notice to the first petitioner.

(g) Pursuant to the said order, the said authority issued notice dated 18.11.1999 calling upon the land owners to attend the enquiry on 06.12.1999 and submit their respective statement in that regard and that the first petitioner attended the enquiry before the said authority and she submitted her detailed written statement. On receipt of the said statement, it was informed that she would receive necessary orders from the said authority. However, nothing was heard thereafter for a long time.

(h) On being contacted the office of the Assistant Commissioner (Land Reforms), Erode, nothing was forthcoming and since the second respondent failed to pass order and failed to delete the lands wrongly included as surplus within the holding of Late Rangasamy Gounder, the land of the petitioners comprised in S.No.192/1A1B was wrongly classified as Government land in the Revenue Records.

(i) The first petitioner sent a detailed representation to the respondents on 07.03.2014 and since nothing fructified, she filed a Writ Petition in W.P.No.25360 of 2014 before this Court for a Mandamus to direct the Assistant Commissioner (Land Reforms), Erode to conduct enquiry and pass orders. This Court, by order dated 12.02.2015, directed the Assistant Commissioner (Land Reforms), Erode to issue fresh notice to the first petitioner within a period of three weeks from the date of receipt of a copy of the order and thereafter, after hearing the first petitioner in person, pass orders on merits and in accordance with law, within two months.

(j) While so, the first petitioner came to know that the post of Assistant Commissioner (Land Reforms) was abolished and the power of the said authority had been vested with the respective Revenue Divisional Officers/Sub-Collectors of the respective divisions. Hence, the first petitioner's counsel on record sent a legal notice dated 09.04.2015 asking the said authority to conduct enquiry as directed by the Tribunal and as per the direction of this Court.

(k) The said notice was followed by another notice, dated 14.06.2015 sent to the second respondent and a copy of the said notice was also sent to the first respondent. The first respondent sent a letter dated 22.05.2015 to the second respondent in this regard. Thereafter, the second respondent conducted an enquiry and recorded the statement of the first petitioner on 19.08.2015 and also secured the report of the Village Administrative Officer, Ramapattinam. The second respondent, after following the procedures and after conducting enquriy, by proceedings dated Nil/09.2015 in Na.Ka.No.1131/2015/B2, signed on 14.09.2015, after adverting to the fact that the order passed under Section 10(5) and the Notification issued under Section 18(1) were set aside by the Special Appellate Tribunal, Chennai at the instance of the first petitioner herein and directed her subordinates to register the name of the first petitioner as the owner thereof in the Revenue Records by deleting the entry in the records as excess lands.

(l) The first petitioner was informed that with respect to the holdings of Late Rangasamy Gounder, the second respondent is contemplating to initiate appropriate proceedings in the manner known to law. Pursuant to the same, the Revenue Records were also changed in the name of the first petitioner in Patta No.1158 with respect to S.No.192/1A1B in an extent of Hec.3.66.0 are. The first petitioner who became the absolute owner of the aforesaid property by way of settlement deed, dated 14.10.2015 and registered as Doc.No.8426 of 2015 on the file of the Sub-Registrar, Pollalchi, settled the aforesaid lands in favour of her daughter, the second petitioner herein.

(m) The said settlement deed was given effect to and the possession of the aforesaid property was also handed over on the date of registration of the said deed and Patta was also changed in the name of the second petitioner and she has been in possession and enjoyment of the aforesaid property as the absolute owner thereof. That being so, the first petitioner received an order, dated 26.02.2016 in Rc.D1/2553/15 (L.Ref) from the first respondent on 30.03.2016 purported to have been exercised under Section 82 of the said Act. The first respondent herein, while calling for records from the second respondent, granted stay of the order of the second respondent, and as against the said order of the first respondent, the petitioners have filed W.P.No.13818 of 2016 before this Court for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the Principal Secretary/Commissioner of Land Reforms, Chepauk, Chennai, dated 26.02.2016 in Rc.D1/2553/15(L.Ref) and to quash the same and this Court directed the first respondent to hear and dispose of the Revision Petition on merits and in accordance with law, after affording an opportunity of hearing to the petitioner and all others concerned, within a period of two months from the date of receipt of a copy of this order.

(n) Pursuant to the above order of this Court, the first respondent numbered the revision petition as D1/RP3/2016 and fixed the enquiry on 10.08.2016, on which date, their counsel appeared and argued the case and also submitted their written submissions. That being so, the first petitioner received the impugned proceedings from the first respondent.

(o) The impugned proceedings disclosed various findings arrived at by the first respondent on total non-application of mind to the facts in issue and misinterpretation of law and non-est in law and arbitrary exercise of power.

3. The respondents have filed counter affidavit stating as follows:

(i) The lands are lying in the jurisdiction of Pollachi Revenue Division, the Sub-Collector, Pollachi is the Assigning Authority in this case. The impugned order has been passed only after affording reasonable opportunity to the petitioners and therefore, there is no violation of principles of natural justice. There has also been no misconception of law and the order was passed based on the Act and the Rule provisions and in accordance with the order passed by the Tamil Nadu Land Reforms Special Appellate Tribunal.

(ii) Land Ceiling Proceedings were initiated against the holdings of Thiru.Rangasamy Gounder, as he held lands more than the ceiling limit as prescribed under the Act on 15.02.1970 being the date of commencement of the Act. He was alive as on 15.02.1970 and died on 05.10.1979. As per the Supreme Court of India ruling in Civil Appeal No.1667 of 1981, dated 11.02.1982, it is enough that the land owner should be alive on the notified date, i.e. on 02.10.1970 and as the land owner in this case was alive on 02.10.1970, the proceedings were continued in the name of his wife Tmt.Ponnammal, representing the deceased land owner and the proceedings were culminated by publication of the Notification under Section 18(1) of the Act published in the Tamil Nadu Government Gazette dated 29.05.1991.

(iii) The Tamil Nadu Land Reforms Special Appellate Tribunal, while remanding the case to the Authorised Officer in the Special Revision Petition in SRP.81 of 1992, dated 17.09.1998, directed the Authorised Officer to hear all the interested persons before passing the fresh order under Section 10(5) and the Authorised Officer was directed to pass order under Section 10(5) in the light of the observations and directions of the Tribunal in the said order dated 17.09.1998. As the proceedings have to be continued from the state of Section 10(5) of the Act, and surplus had to be declared, notices have to be issued to Tmt.Ponnammal, wife of the deceased Rangasamy Gounder, who is representing the deceased land owner and also the heirs of the deceased land owner and all other interested persons as directed by the Tribunal. Hence, the first respondent has correctly rendered a finding that the second respondent had not conducted full-fledged enquiry with the land owner and all other interested persons before passing fresh order under Section 10(5) of the Act, as directed by the Tribunal in the said order dated 17.09.1998.

(iv) An order under Section 10(5) of the Act was passed on 25.08.1989 declaring an extent of 14.02 ordinary acres equivalent to 4.673 standard acres as surplus. When it was directed to furnish the list of lands to be declared as surplus, the wife of the land owner Tmt.Ponnammal in her letter, dated

17.07.1990 had stated that she sold lands by her husband as on 15.02.1970 to his brother's sons M.V.Muthukumar and M.M.Kumaresan and offered lands to an extent of 9.84 acres in S.F.Nos.201/1B, 201/2B, 203/1A, 203/2A, 205/1 and 205/3 of Singanallur Village and the balance extent of 4.36 acres from S.F.No.85 of Ramapattinam Village for declaration as surplus.

(v) When the Special Deputy Tahsildar (Land Reforms), Coimbatore was asked to give his report on the offer of lands for declaration as surplus, the Special Deputy Tahsildar had selected the land in S.F.No.192/1A1 of Ramapattinam Village of an extent of 9.05 acres for declaration as surplus, in view of the fact that the wife of the land owner offered the above land in lieu of the lands offered earlier in Singanallur Village and the balance extent from S.F.No.85 on 17.07.1990 and gave deposition to that effect before the Assistant Commissioner (Land Reforms), Coimbatore on 09.08.1990 during his visit to the Village. Based on the consent given by the wife of the land owner Tmt.Ponnammal and the report of the Special Deputy Tahsildar (Land Reforms), Coimbatore dated1 13.08.1990, the land was selected and declared as surplus. The declaration of subject land was questioned by the petitioner before the Tamil Nadu Land Reforms Special Appellate Tribunal in S.R.P.No.81 of 1992.

(vi) When the said case is pending, the State filed suo-motu filed revision before the Tamil Nadu Land Reforms Special Appellate Tribunal to set aside the order of the Land Tribunal in L.T.A.No.73 of 1974, dated 26.07.1973 declaring the transaction made by the land owner on 18.04.1970 as valid, in view of the Supreme Court ruling in Civil Appeal Nos.2542 to 2544 of 1972, dated 04.05.1979. The Tamil Nadu Land Reforms Special Appellate Tribunal, in its order dated in D.No.844/93, dated 18.07.1994, had dismissed the Special Revision Petition as not maintainable on the ground that the said order of the Land Tribunal was already challenged before this Court and this Court dismissed the case and therefore, it cannot go into the question of correctness of the order after ignoring the order of this Court.

(vii) When the Special Revision Petition filed by the petitioner was pending, the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, was further amended by Act 11 of 1996 amending Section 22 so as to be in consonance with the principles laid down by the Supreme Court in the case reported in Authorised Officer Vs. S.Naganatha Ayyar, reported in AIR 1979 SC 1487 and to make it clear that if any transfer or partition has the effect of reducing the extent of surplus land in excess of the ceiling area, such transfer or partition whether *bona-fide* or not, shall be construed as defeating the provisions of the said Act. Further, a provision has also been made in the above said amended Act to give validation of all acts done or proceedings taken in respect of cases falling under Section 22 of the Principal Act by the authorised officer and to re-open the past cases which have been disposed of before the date of publication of the Amended Act within a period of five years from the date of publication of the Amended Act, which came into force with effect from 09.11.1994.

(viii) The Tamil Nadu Land Reforms Special Appellate Tribunal in SRP.81 of 1992 had not gone into the merits of the case of the petitioner, as it held that there is no need to go into various questions raised in the case at present till revised orders are passed. There is no specific direction for deletion of lands of the petitioner from the holdings of the land owner. When it is so, the petitioner is trying to mislead the Court by filing false statement that the Tribunal, after considering the entire case, had rightly allowed the said appeal by setting aside the order passed under Section 10(5) and Section 18(1) Notification. The order under Section 10(5), the final statement under Section 12 and the Notification under Section 18(1) were set aside by the Tribunal only in order to enable the Authorised Officer to conduct remanded enquiry for fresh disposal.

(ix) The Assistant Commissioner (Land Reforms), Erode being the Authorised Officer, initiated action under the Amended Act 11 of 1996 and accordingly issued notices to the transferor and transferee involved in the transaction effected on 18.04.1970 in Doct.No.769 of 1970 and to the other interested persons, as directed by the Tribunal on 18.11.1999 and further notices were issued on 14.12.1999, 03.01.2000, 07.11.2003 and 08.06.2006, by virtue of which, the case had been re-opened under the Amended Act 11 of 1996 and the proceedings had to be continued and final Notification has to be published.

(x) As per the direction of this Court in W.P.No.25360 of 2014, dated 12.02.2015, the second respondent passed order on 14.09.2015 to the effect that as the Tribunal had set aside the order under Section 10(5), final statement and Section 18(1), ordered to delete the entry made as surplus in S.F.No.192/1A1B and restored it in the name of person whose name was registered before registering it as surplus after making enquiry with the petitioner.

(xi) Thiru.Rangasamy Gounder held lands of an extent of 79.70 ordinary acres equivalent to 24.876 standard acres under Section I and Tmt.Ponnammal, wife of the land owner held lands of an extent of 18.05 ordinary acres equivalent to 6.016 standard acres under Section VI as on the date of commencement of the Act, i.e. on 15.02.1970 and the holdings of the wife of the land owner Tmt.Ponnammal was kept separately under Section VI and had not been included in the holdings of the land owner Thiru.Rangasamy Gounder under Section I, and he expired on 05.10.1979 and as he was alive on 02.10.1970, the proceedings continued in the name of Tmt.Ponnammal, representing the deceased land owner and after allowing the ceiling area and grant of exemptioin and exclusion, an extent of 14.02 ordinary acres equivalent to 4.673 standard acres was declared as surplus.

(xii) When it was directed to furnish the list of lands for declaration as surplus, Tmt.Ponnammal initially on 17.07.1970 offered lands in Singanallur Village and the land in S.F.No.85 of Ramapattinam Village by stating that she sold lands held by her husband as on 15.02.1970 to his brother's sons M.V.Muthukumar and M.M.Kumaresan. Then, she subsequently offered the subject land in lieu of the lands earlier offered in Singanallur Village on 09.08.1990. The subject land was hence declared as surplus based on the consent given by Tmt.Ponnammal.

(xiii) As per Section 23(1)(a) of the Act, any transfer, whether by sale (including sale in execution of a decree or order of a Civil Court or of an Award or order of any other lawful authority or by gift other than gift made in contemplation of death), exchange, surrender, settlement or otherwise effected on or after the notified date and before the publication of a Notification under sub-section (1) of Section 18, shall be deemed to have been void and accordingly the Authorised Officer shall calculate the ceiling area of such person as if no such transfer or sub-division had taken place.

(xiv) The first respondent only after giving notice to the petitioner. The first respondent only after perusal of records and the order of the Tribunal, dated 17.09.1998 and in strict compliance of the Act and the Rule provisions had rendered findings in the order dated 02.09.2016 in R.P.No.3 of 2016.

(xv) The subject lands may or may not be declared surplus and until the process if concluded, second respondent had erroneously reversed the earlier declaration of surplus without proper orders as per law and leaving the field open for transactions and further encumbrance and other third party interests creeping in and innocent buyers likely being affected. The petitioner has nothing to loose if at the end of proper following of procedures and law, the subject lands are not declared surplus.

4. Learned counsel for the petitioners submitted that the first petitioner was informed that with respect to the holdings of Late Rangasamy Gounder, the first respondent is contemplating to initiate appropriate proceedings in the manner known to law and pursuant to the same, the Revenue Records were also changed in the name of the first petitioner in Patta No.1158 with respect to S.No.192/1A1B in an extent of 3.66 standard hectares. The first petitioner became the absolute owner of the above said property by way of settlement deed, dated 14.10.2015 and the registered the document as Document no.8426 of 2015 on the file of the Sub-Registrar, Pollachi, settled the above said land in favour of her daughter, the second petitioner herein. The settlement deed was given effect to and the possession of the property was also handed over on the date of registration of the settlement deed and Patta was also mutated in the name of the second petitioner, and she is in possession and enjoyment of the property mentioned in the settlement deed as the absolute owner. All of a sudden, surprisingly, the first petitioner received the order dated 20.06.2016

from the first respondent on 30.03.2016 purported to have been exercised under Section 82 of the said Act. The first petitioner herein, while calling for the records from the second respondent, and granted stay of the order of the second respondent and as against the said order of the first respondent, the petitioner has preferred W.P.No.13818 of 2016 before this Court for issuance of a Writ of Certiorarified Mandamus to call for the records and quash the same and this Court directed the first respondent herein to dispose of the Revision Petition on merits and in accordance with law after affording an opportunity of hearing to the petitioner and all other interested parties, within a period of two months from the date of receipt of a copy of the order.

5. Pursuant to the above order of this Court, the first respondent has taken the Revision Petition and fixed the enquiry on 10.08.2016 and on that date, the counsel appeared and argued the case and also submitted written submissions. Thereafter, all of a sudden, the petitioner received the impugned proceedings from the first respondent, which discloses various findings arrived at by the first respondent on total non-application of mind to the facts in issue and misrepresentation of law, and therefore, the impugned order passed by the first respondent is non-est in the eye of law and arbitrary exercise of power. Therefore, the impugned order is liable to be quashed and the properties have to be removed from the surplus land and also it has to be declared as the

properties of the second respondent, since now she is in possession of the property under the settlement deed and now she in possession of the property and she does not fall under the said Land Reforms Act.

6. Learned Additional Government Pleader appearing for the respondents submitted that originally, one Rangasamy Gounder held the land of an extent of 79.70 ordinary acres equivalent to 24.876 standard acres under Section (I) and one Tmt.Ponnammal being the wife of the land owner, held the land of an extent of 18.05 ordinary acres equivalent to 6.016 standard acres under Section (IV) as on the date of commencement of the Act. The Act came into force on 15.02.1970 and the holding of wife of the land owner Tmt.Ponnammal was kept separately under Section VI and was not included in the holding of the land owner Thiru.Rangasamy Gouner under Section I and he expired on 05.10.1979. As he was alive on 02.10.1970 and when the Act came into force during the proceedings continued in the name of Tmt.Ponnusamy representing the deceased land owner after allowing the ceiling area and grant of exemption, and exclusion, an extent of 14.02 ordinary acres equivalent to 4.673 standard acres were declared as surplus. The said Ponnusamy officially on 17.07.2017 offered the land in Singanallur Village and the land in S.F.85 Ramapattinam Village by stating that she sold the lands held by her husband as on 15.02.1970 to his brother's son one N.P.Muthukumar and M.M.Kumaresan. Since he has

subsequently offered the subject land in lieu of the land earlier offered for Singanallur Village on 09.08.1990, the subject land was hence declared as surplus based on the consent given by the said Tmt.Ponnammal. He further submitted that as per Section 23(1)(a) of the Act, any transfer whether by sale, exchange, surrender, settlement or otherwise effected or after the notified date and before publication of the Notification under Section 18(1), shall be deemed to have been void and accordingly, the Authorised Officer shall calculate the ceiling area of such person as if no such transfer or sub-division had taken place.

7. The first respondent only after giving notice to the petitioner and after perusal of the records and the order of the Tribunal, dated 17.09.1998, the first respondent, after perusal of the records and the order of the Tribunal, dated 17.09.1998 and in strict compliance of the Act and the Rules and the provisions, had given the findings in the impugned order dated 02.09.2016 in R.P.No.3 of 2016. The subject land may or may not be declared as surplus land and until the process if concluded, the second respondent had erroneously reversed the earlier declaration and surplus land without property order as per law, leaving the field open for transaction. Further, the encumbrance and other third party interest creeping in and the innocent buyers likely going to be affected. The petitioners has nothing to loose if at all end of properly following the procedures and the subject vendor now declared as surplus.

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

9. Admittedly, at the time when the Land Reforms Act, 1961 came into force on 15.02.1970, one Rangasamy Gounder held the lands of an extent of 79.70 ordinary acres equivalent to 24.876 standard acres and Tmt.Ponnammal who is the wife of the said Rangasamy, had also held the lands of an extent of 18.05 ordinary acres equivalent to 6.06 standard acres. As on the date when the Land Reforms Act, of 1961 came into force on 15.02.1970, the holding of land by the wife of the land owner, i.e. Tmt.Ponnammal was kept separately and the said Rangasamy Gounder expired on 05.10.1979. At the time, even during his lifetime when the Act came into force on 19.07.1970 and the proceedings continued in the name of Ponnammal representing the deceased land owner and after allowing the ceiling area and the grant of exemption and exclusion of an extent of 14.2 ordinary acres equivalent to 4.67 standard acres, was declared as surplus land.

10. According to the respondents, the subject land was selected on the consent given by the said Ponnammal, being the wife of the land owner and accordingly, final statement under Section 12 and the Notification under Section 18(1) of the said Act, were published in the Tamil Nadu Government Gazette on

09.01.1991 and 29.05.1991 respectively. Now the petitioner being the purchaser of the land from the wife of the land owner, namely Tmt.Ponnammal, challenging the declaration before the Tamil Nadu Land Reforms Special Appellate Tribunal, which has passed the order dated 17.09.1998 and they have made certain observations and however, liberty was given to the authority to take fresh action under Act 11 of 1996 as deemed fit and passed order on 17.09.1998. Thereafter, the Authorised Officer did not give opportunity to the land owner and all other interested persons before passing fresh order under Section 10(5) of the Act as directed by the Tribunal in its order dated 17.09.1998. Thereafter, the Special Appellate Tribunal is said to have conducted enquiry under Section 10(5) of the Act. Challenging the said order, they have filed the revision petition before the first respondent, who found that the Authorised Officer did not conduct any enquiry with the land owners and all other interested persons before passing the fresh order under Section 10(5) of the Act.

11. Further, the first respondent found that the Authorised Officer had not conducted full-fledged enquiry as directed by the Tribunal and in that order, there was no specific direction for deletion of the land of the petitioner from the holding of the land owner. The Notification published on 29.05.1991 was not statutorily cancelled by the Government and the lands were not selected for

declaration. However, complying with the direction of the Tribunal, the restoration of the land to the petitioner by the Authorised Officer is against the provisions of the said Act. Based on the order of the Tribunal, the Authorised Officer ought to have conducted enquiry and passed order after giving notice and checking all the facts as per law. Since the Authorised Officer has not conducted enquiry as directed by the Tribunal by the order dated 17.09.1998, the first respondent has passed the order dated 02.09.2016 stating as follows:

> "The 1st respondent has not conducted any enquiry with the land owner and all other interested persons before passing fresh orders under section 10(5) of the Act, as directed by the Tamil Nadu Land Reforms Special Appellate Tribunal in the order in SRP.81/92 dated 17.09.1998.
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> The 1st respondent has not conducted full fledged enquiry as directed by the Tamil Nau Land Reforms Special Appellate Tribunal. There is no specific direction for deletion of land of the petitioner from the holdings of the land owner. The notification published on 29.05.1991 has not been statutorily cancelled by the Government and lands were not selected for declaration. Without complying the directions of the Tamil Nadu Land Reforms Special Appellate Tribunal dated 17.09.1998, the restoration of land to the petitioner by the 1st respondent is against the provisions of the Act. Hence only on the

selection of alternate lands, is any change in land records to be made, that too after declaration of surplus and modified notification is published.

Based on the orders of the Tamil Nadu Land Reforms Special Appellate Tribunal, necessary in pursuance orders are to be passed by the Authorised Officer, after giving notice and checking all facts and as per law.

Further based on orders of the Tamil Nadu Land Reforms Special Appellate Tribunal, the notification under section 18(1) needs modified notification - of either a cancellation or modification. Therefore, the Authorised Officer is directed to select surplus lands which are free from encumbrance and feasible for cultivation, after conducting enquiry and notice to all interested persons and pass order under Section 10(5) of the Act, as directed by the Tamil Nadu Land Reforms Special Appellate Tribunal.

Based on the orders to be issued, the Authorised Officer is directed to amend the final statement under section 12 and modify the notification already published in this case.

The Authorised Officer is also requested to apply the provisions of section 23(2) of the Act, if it requires.

With these observations, the order of the 1st respondent dated 14.09.2015 is set aside and remanded back for fresh disposal in the light of the above observations and directions."

12. Therefore, since the said Ponnammal has voluntarily given the statement and the Authorised Officer, without considering the same, had passed the order, and therefore, the first respondent has clearly stated that the Authorised Officer has not followed the direction given by the Tribunal in the order dated 17.09.1998, and therefore, the first respondent has considered the earlier order and also re-looked into the original final statement filed by Ponnammal and gone through the entire materials and now the first respondent has set aside the order passed by the Authorised Officer and remitted the matter back for fresh disposal, hence the writ petitioner shall not be prejudiced, since the order of the Tribunal was not challenged by the petitioner before any forum and now they cannot challenge the present impugned order and further, the first respondent gave direction only based on the order of the Tribunal and the Notification issued under Section 18(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act (amended Act 30 of 1989). Therefore, the Authorised Officer is directed to select the surplus land which are free from encumbrances and feasible for cultivation, after giving notice to interested persons and after conducting enquiry in the manner known to law and pass order under Section 10(5) of the said Act, as directed by the Special Appellate Tribunal. Therefore,

the petitioners shall not be prejudiced on the same and therefore, the contentions of the learned counsel for the petitioners, are not sustainable in law and there is no reason to interfere with the impugned order passed by the first respondent. There is no perversity in passing impugned order or illegality or even arbitrariness in the same.

13. Accordingly, for the reasons stated above, the Writ Petition is dismissed. The petitioners are at liberty to raise all their objections before the Authorised Officer while the enquiry is being conducted. The Authorised Officer, after giving an opportunity of hearing to the petitioners, is directed to conduct enquiry in the manner known to law and pass orders on merits and in accordance with law. The entire exercise shall be complied within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. The Miscellaneous Petition is closed.

22.12.2023

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To

1. Commissioner for Land Reforms,
Ezhilagam, Chepauk,
Chennai-600 005.

2. Sub-Collector, Pollachi.

P. VELMURUGAN, J

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Pre-delivery Order in
W.P.No.37371 of 2016

Order delivered on 22.12.2023