



W.P.(MD)Nos.23240 of 2015 and 8960 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)Nos.23240 of 2015 and 8960 of 2016

and

W.M.P.(MD)Nos.1 and 2 of 2015 and 7168 of 2016

W.P.(MD)No.23240 of 2015

R.Narayanan

... Petitioner

versus

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Revenue Department,
Secretariat,
Chennai.
2. The Principal Commissioner and
Commissioner of Land Reforms,
Chepauk,
Chennai – 600 005.
3. The District Collector,
Thoothukudi District,
Thoothukudi.
4. The Assistant Commissioner,
Land Reforms,



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Tirunelveli,
Tirunelveli District.

Now designated as
The Revenue Divisional Officer (M Section),
O/o. The Collectorate,
Korampallam,
Thoothukudi.

5. Kumar @ Jesudas Sukumar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari to call for the records relating to the impugned order dated 09.07.2014 made in R.P.No.17 of 2013 passed by the 2nd respondent and the consequential order passed by the 4th respondent in his proceedings in R.C.No.MR 1/22M/SVM/17/70 dated 29.01.2015 (served to the petitioner on 01.12.2015 through RTI Act) and quash the same as illegal.

For Petitioner : Mr.C.Venkatesh Kumar

For R1 to R4 : Mr.M.Sarangan,
Additional Government Pleader

For R5 : Mr.Mohan,
Senior Counsel
for Mr.V.Balaji

W.P.(MD)No.8960 of 2016

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versus



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Tirunelveli District.
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O/o. The Collectorate,
Korampallam,
Thoothukudi.
5. The Thasildhar,
O/o. The Taluk Office,
Srivaigundam,
Srivaigundam Post,
Srivaigundam Taluk,
Tuticorin District.



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6. The Zonal Deputy Thasildar,
O/o. The Taluk Office,
Srivaigundam,
Srivaigundam Post,
Srivaigundam Taluk,
Tuticorin District.

7. Kumar @ Jesudas Sukumar

8. Manoranjithiam

9. Anandthalatha

10. Annam

11. Muthupushpam

12. Kalopraja

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari to call for the records relating to the impugned order passed by the 5th respondent in his proceedings No.Nil dated 09.03.2016 and quash the same as illegal.

For Petitioner : Mr.C.Venkatesh Kumar

For R1 to R6 : Mr.M.Sarangan,
Additional Government Pleader

For R7 to R12 : Mr.Mohan,
Senior Counsel
for Mr.V.Balaji



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COMMON ORDER

W.P.(MD)No.23240 of 2015 has been filed as against the impugned order dated 09.07.2014 passed by the Principal Commissioner and Commissioner of Land Reforms, Chennai, in R.P.No.17 of 2013 and the consequential order passed by the Assistant Commissioner, Land Reforms, Tirunelveli, in his proceedings in R.C.No.MR 1/22M/SVM/17/70 dated 29.01.2015.

2. W.P.(MD)No.8960 of 2016 has been filed as against the order passed by the Thasildar, Srivaigundam, Tuticorin, in his proceedings dated 09.03.2016.

3. The petitioner claims that the land in S.No.52/1 to an extent of 1 acre 69 cents situated in Natthathi Village, Srivaigundam Taluk, Thoothukudi District was assigned in his favour vide proceedings dated 31.08.2007 by the Assistant Commissioner of Land Reforms,



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Tirunelveli. While so, one Kumar, S/o. Thangapandi, who is the 5th respondent in W.P.(MD)No.23240 of 2015 and 7th respondent in W.P. (MD)No.8960 of 2016, has filed a revision petition before the Commissioner of Land Reforms, Chennai, under Section 82 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 58 of 1961 as amended by Act 17 of 1970, challenging the declaration of surplus notified in Notification dated 10.08.1988, in respect of the land to an extent of 1.68 acres in S.F.No.52/1, 0.20 acre in S.F.No.98/1 and 0.10 acre in S.F.No.212/1 of Nattathi Village, Srivaikundam Taluk. The said revision petition was decided by the Commissioner of Land Reforms, Chennai, by order dated 09.07.2014 in the following terms:

“19. The exercise done in the Office of the Assistant Commissioner (Land Reforms), Tirunelveli in assigning lands seems to be devoid of looking at records and state on ground. The re-assignment to Narayanan, after cancellation of assignment to Vellaichamy, with petition of Revision Petitioner's father in the related file, since 25.09.2000, possession being with the petitioner, sale deeds in his name, and all the aspects clearly show



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the Assistant Commissioner (Land Reforms), Tirunelveli has not correlated matters to arrive at the correct assignment.

20. The exercise under Section 23 not having been done, not arranging soles in chronological order and not giving notice to interested persons, are flaws in procedure during declaration of surplus.

21. In view of all these reasons, the case of the Revision Petitioner is remanded to Assistant Commissioner (Land Reforms), Tirunelveli for enquiry, applying the relevant provisions of the Act and based on that, to submit proposals for modification of orders as necessary.”

Thereafter, the consequential order has been passed by the 4th respondent in his proceedings in R.C.No.MR 1/22M/SVM/17/70 dated 29.01.2015, cancelling the assignment granted in favour of the petitioner. Subsequently, the Thasildar, Srivaigundam, Tuticorin District, has passed an order dated 09.03.2016, changing the patta in favour of the said Kumar, which is impugned in W.P.(MD)No.8960 of 2016.



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3. The learned counsel appearing for the petitioner, by referring to the proviso to Section 82 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, submits that the Commissioner of Land Reforms ought not to have passed any order without providing an opportunity of hearing to the petitioner. According to the petitioner, the land in S.No.52/1 to an extent of 1 acre 69 cents has been assigned in his favour by proceedings of the Assistant Commissioner of Land Reforms, Tirunelveli, dated 31.08.2007. In view of the order dated 09.07.2014 passed by the Commissioner of Land Reforms, the interest of the petitioner is affected.

4. The Proviso to Section 82 of the Tamil Nadu Land reforms (Fixation of Ceiling on Land) Act is extracted as under:

82. Revision by the Land Commissioner – The Land Commissioner may call for and examine the record of any authorized officer in respect of any proceeding [under Sections 9(3), 12, 13, 14(1), 14(2), 17(3), 18(4),



50(5) or 50(9) or the record of any proceeding under sub-section (2) of Section 54] and in respect of any other proceeding under this Act not being a proceeding in respect of which a suit or an appeal to the Land Tribunal is provided by this Act to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed thereon, and if, in any case, it appear to the Land Commissioner that any such proceeding, decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly.

Provided that the Land Commissioner shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard.”

5. From the above, it is clear that the Land Commissioner ought to have provided an opportunity of hearing to the parties concerned, before passing any order on the revision petition.

6. But, in this case, the Land Commissioner, without providing an opportunity of hearing to the petitioner, has passed the order dated



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09.07.2014 in the revision petition filed by the 5th respondent in W.P. (MD)No.23240 of 2015 in R.P.No.17 of 2013. Therefore, the order dated 09.07.2014 is liable to be set aside.

6. Accordingly, W.P.(MD)No.23240 of 2015 is allowed by setting aside the order dated 09.07.2014 passed by the Principal Commissioner and Commissioner of Land Reforms, Chennai, in R.P.No.17 of 2013 and the consequential order dated 29.01.2015 passed by the Assistant Commissioner, Land Reforms, Tirunelveli. The matter is remanded back to the Commissioner of Land Reforms, Chennai, for fresh consideration. The Commissioner of Land Reforms, Chennai, shall take a fresh call by providing an opportunity to the petitioner as well as to the contesting respondents. Let this exercise be conducted independently and be concluded within a period of six months from the date of receipt of a copy of this order. The parties are expected to maintain *status quo* till the disposal of the proceeding before the Commissioner of Land Reforms, Chennai.



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7. In view of the order passed in W.P.(MD)No.23240 of 2015, the order dated 09.03.2016 passed by the Tashildar, Srivaigundam, Tuticorin, is also set aside. Accordingly, W.P.(MD)No.8960 of 2016 is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

28.11.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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Secretariat,
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Commissioner of Land Reforms,
Chepauk,
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B.PUGALENDHI, J.

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