



Rev.Aplw(MD)Nos.110 of 2022 & 55 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 24.04.2023

DELIVERED ON : 01.06.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

Rev.Aplw(MD)Nos.110 of 2022 & 55 of 2023

in

W.P(MD)Nos.3969 & 6015 of 2012

Rev.Aplw(MD)No.110 of 2022:

1.Mohamed Farook

2.Zarina Farook

....Applicants/Petitioners

Vs.

1.The District Collector,
Pudukkottai,
Pudukkottai District.

2.The Assistant Commissioner (Land Reforms),
Old Collector Office Building,
Trichy District.

3.The Tahsildar,
Pudukkottai,
Pudukkottai District.

4.Sulthan Mohaideen

5.Noorjahan Begam



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6.Abbas Ajmeer Mohaideen

Respondents/Respondents 1-6

7.Mohamed Siddique

... Respondent/3rd Petitioner

PRAYER:- Review Application filed under Order 47 Rule (1) r/w under Section 114 of Code of Civil Procedure, to review the order, dated 13.09.2022 made in W.P(MD)No.6015 of 2012 and M.P(MD)Nos.2 of 2012 on the file of this Court.

For Petitioners : Mr.K.Baalasundaram
Senior Counsel
for Mr.R.Jegadeswaran

For R1-R3 : Mr.N.G.A.Natraj
Government Advocate

Rev.Aplw(MD)No.55 of 2023:

1.Kesava Rao

2.Sankara Narayanan

....Petitioners/Petitioners

Vs.

1.The Land Commissioner (Land Reforms),
Chepauk, Chennai-5.

2.The Assistant Commissioner (Land Reforms),
Old Collector Office Building,
Trichy.



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3.The Sub-Inspector (Land Reforms),
Pudukkottai Section,
Trichy.

4.The District Collector,
Pudukkottai,
Pudukkottai District.

5.The Tahsildar,
Pudukkottai,
Pudukkottai District.

6.V.Suriyaprakash

7.V.Kanagaraj ... Respondents/Respondents

PRAYER:- Review Application filed under Order 47 Rule (1) r/w under Section 114 of Code of Civil Procedure, to review the order, dated 13.09.2022 made in W.P(MD)No.3969 of 2012 and M.P(MD)Nos.2,3 & 4 of 2012 on the file of this Court.

For Petitioners : Mr.K.Baalasundaram
Senior Counsel
for Mr.R.Jegadeswaran

For R1-R5 : Mr.N.G.A.Natraj
Government Advocate



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COMMON ORDER

Both the review petitions have been filed challenging an order of this Court, dated 13.09.2022 made in W.P(MD)Nos.6015 and 3969 of 2012.

2. W.P(MD)No.6015 has been filed by a purchaser from one Santha seeking a mandamus directing the revenue authorities to transfer patta in the name of the petitioners and the respondents 4 to 6. W.P(MD)No.3969 of 2012 has been filed challenging an inter-departmental communication issued by the Assistant Commissioner of Land Reforms to effect mutation of revenue records in favour of the Government.

3. The authorities under the Land Reforms Act have issued a notification under Section 18 (1) of the Tamil Nadu Act 58 of 1961 on 30.01.1980. The said notification was not challenged either by the owner or by anyone of the interested parties. Without challenging the said



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notification, the above writ petitions were filed seeking the above mentioned prayer. This Court had dismissed both the writ petitions on the ground that mutation of revenue records in favour of private parties is not permissible in view of the notification under Section 18 (1) of Tamil Nadu Act 58 of 1961. This Court further found that the vendor of the writ petitioner in W.P(MD)No.6015 of 2012 did not have any title to the property in view of the judgment of the High Court in A.S.No.1089 of 1989. This order is sought to be reviewed in the present review petitions.

4. The learned senior counsel appearing for the review petitioners has raised the following grounds:

(a) The original owner of the property, namely Ragunatha Rao had passed away in the year 1979 and thereafter, notification under Section 18(1) of Tamil Nadu Act 58 of 1961 has been issued in the year 1980. Therefore, the said notification issued as against a dead person is a nullity.

(b) If any notice had been issued to the legal heirs or the interested parties, they would have brought to the notice of the authorities that even during the life time of Ragunatha Rao, he had gifted the property in



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favour of Venkatakrishna Rao in the year 1960 even before coming into force of Tamil Nadu Act 58 of 1961.

(c) The petitioner in W.P(MD)No.6015 of 2012 though purchased the property from Santha, daughter of Venkatakrishna Rao, but that was not part of the suit property in O.S.No.112 of 1986.

5. The learned senior counsel appearing for the review petitioners has contended that these three aspects have not been taken into consideration at the time of passing orders, which is an error apparent on the face of the judgment and therefore, the order requires to be reviewed.

6. Per contra, the learned Government Pleader appearing for the respondent had contended that notices were issued to the original owner of the property, namely Appusamy Rao on 31.01.1976, even while he was alive and an order was passed declaring the surplus lands after affording property to the said Appusamy Rao. The said order was also communicated to him even in the year 1976. However, Appusamy Rao



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has not chosen to challenge the same. Therefore, the contention of the review petitioner that 18 (1) notification has been issued as against a dead person in the year 1980 is not legally sustainable.

7. The learned Government Pleader had further contended that the vendor of the petitioner in W.P(MD)No.6015 of 2012, namely Santha claimed that she is the daughter of one Venkatakrishna Rao to whom property is said to have been gifted by Ragunatha Rao in the year 1960. A Trust by name Sri Raghu Ramana Anantha Trust had filed O.S.No.112 of 1986 before Sub Court, Pudukkottai seeking compensation for taking over of the lands by the Government of Tamil Nadu under Act 58 of 1961. In the said suit, Santha was arrayed as one of the parties and the trial Court arrived at a finding that Santha is not entitled to the said property. An appeal filed by the said Santha in A.S.No.1089 of 1989 before the High Court was also dismissed on 14.08.1992. Therefore, the said Santha did not have any title whatsoever to alienate the property in favour of the petitioners in the year 2005.



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8. The learned Government Pleader further contended that W.P.No.8625 of 1983 which was filed by Santha challenging the notification issued under Section 18 (1) was dismissed on the ground that she does not have any *locus standi* and she has to await for result in A.S.No.1089 of 1989. Hence, according to the learned Government Pleader, the properties covered in O.S.No.112 of 1986 and the properties purchased by the writ petitioner and the properties taken over by the Government under Tamil Nadu Act 58 of 1961 are one and the same. Hence, he contended that there is no error apparent on the face of the record.

9. I have carefully considered the submissions made on either side.

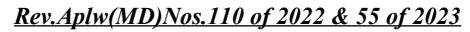
10. The petitioners in W.P(MD)No.6015 of 2012 claimed that they have purchased Survey No.558/2 from one Santha and his son on 13.01.2005. The said Santha had challenged the 18 (1) notification issued under Tamil Nadu Act 58 of 1961 in W.P.No.8625 of 1983 and the said writ petition has been dismissed on 19.06.1990 on the ground that Santha did not have any *locus standi* to challenge the said notification and she



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has to await for the decision in A.S.No.1089 of 1989. Therefore, it is clear that the suit properties in O.S.No.112 of 1986 and the lands taken over by the Government under the Tamil Nadu Act 58 of 1961 are one and the same.

11. This Court by an order, dated 14.08.1992 in A.S.No.1089 of 1989 had dismissed the appeal filed by Santha holding that a Will has been executed by Appasamy Rao on 15.09.1978 in favour of a Trust, namely Sri Raghu Ramana Anantha Trust. The validity of the said Will was upheld by the High Court and the suit filed by the Trust seeking compensation from the Government for taking over of the lands under Tamil Nadu Act 58 of 1961 was decreed and confirmed by the High Court. Therefore, it is clear that the properties that were taken over by the Government and the properties that were subject matter of O.S.No.112 of 1986 are one and the same. Though liberty was given to Santha to challenge 18 (1) notification after disposal of A.S.No.1089 of 1989, she has not chosen to challenge the same. However, she has chosen to alienate it in favour of the petitioners in the year 2005.



13. Therefore, both the review petitions stand dismissed.

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR,J.

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Order made in
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01.06.2023