



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-07-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN**

WA No.202 of 2021

1.C.J.Ramakrishnan (Died)

2.C.R.Rangaiah

[Sole appellant (died)
is substituted by the second appellant as
LRs of deceased sole appellant vide
order of Court dated 19.12.2023 made
in CMP No.4606 of 2020 in
WA SR No.17442 of 2016 (WA 202/2021).

.. Appellants

-VS-

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Revenue Department,
Fort St. George,
Chennai-600 009.



WEB COPY

2.The District Collector,
Coimbatore District,
Coimbatore.

3.The Assistant Commissioner of Land Reforms-cum-
the Authorised Officer,
Jai Bhavan,
Gandhiji Road,
Erode District,
Erode.

4.The Tahsildar (South),
Hosur Road,
Coimbatore.

5.C.N.Ramalingam

6.C.N.Balachandran

7.S.Manickam

8.M.Thangammal

9.N.Palaniammal

10.M.Ramasamy

11.M.Srinivasan

12.M.Rajagopal

13.V.Poovathaal

[R-8 to R-13 are impleaded vide order of
Court dated 19.12.2023 made in CMP
No.16570 of 2022 in WA No.202 of 2021]

.. Respondents



Writ Appeal is preferred under Clause 15 of the Letters Patent against the order passed by this Court in WP No.25731 of 2011 dated 03.11.2015.

For Appellants : Ms.S.Pooja Shree for
M/s.A.Parthasarathy and Associates.

For Respondents-1 to 4 : Mr.A.Selvendran,
Special Government Pleader.

For Respondent-5 : No Appearance

For Respondent-6 : Mr.R.Kannan

For Respondent-7 : Mr.N.Manokaran

For Respondents-8 to 13 : No Appearance

J U D G M E N T

[JUDGMENT OF THE COURT WAS DELIVERED

BY S.M.SUBRAMANIAM, J.]

The present Intra Court Appeal has been instituted challenging the writ order dated 03.11.2015 in WP No.25731 of 2011.



WEB COPY

WA No.202 of 2



2. The writ petitioners are the appellants before us.

3. The land measuring 6.02 acres in S.No.80/2 (Old S.Nos.229 and 241) in Perur Village, Coimbatore District, is the subject matter in the present Writ Appeal.

3. Once Smt.K.R.Masthammal had executed the Settlement Deed in favour of Smt.Rukmani @ Prema (Foster daughter), land measuring 50.35 acres. The said Smt.K.R.Masthammal had executed another Settlement Deed in favour of another Foster daughter viz., Smt.Thai @ Nanjammal to an extent of 33.59 acres.

4. The Tamil Nadu Land Reforms (Fixation of Ceiling on Lands) Act, 1961 [hereinafter referred to as the 'Act', in short], came into force. The Act was notified in the Gazette on 02.10.1962 and retrospective effect was given. Consequently, the Authorities under the Act, issued notices to transferors and transferees on 01.08.1967.



5. The Settlement Deeds executed on 06.04.1960 and 09.04.1960 were fell under the definition of the Act. As the Settlement Deeds were executed after the date of commencement of the Act, the Competent Authorities invoked Section 22 of the Act by declaring that the transfers are void. Objections received from the affected persons and Settlees, were taken into considerations and the Authorised Officer held that all alienations made after commencement of the Act, are void under Section 22 of the Act. Accordingly, the said position was confirmed.

6. The affected persons Mr.Venkatachallah Udaiyar, Smt.K.R.Masthammal, Smt.Thai @ Nanjammal, Smt.Rukmani @ Prema, filed Land Tribunal Appeal Cases in LTA Nos.173, 206, 207 and 208 of 1967. All the appeals were dismissed by the Land Reforms Appellate Tribunal on 23.12.1968. Notedly, the learned Single Judge of the Madras High Court in the case of **S.Naganatha Ayyar vs. Authorised Officer [(1971) 1 MLJ 264]** held that bona fide transfers need not be interfered with by the Competent Authorities by invoking Section 22 of the Act.



7. Relying upon the said judgment of the learned Single Judge of the Madras High Court in **S.Naganatha Ayyar case** (cited supra), the Civil Revision Petitions (CRPs) filed by the affected persons in CRP Nos.248 to 260 of 1969, are allowed on 22.01.1971. Consequently, the Settlement Deeds were restored and remaining extent of land had been declared as surplus under the Act.

8. Pertinently, the decision in **S.Naganatha Ayyar case** (cited supra), by the learned Single Judge of Madras High Court was reversed by the Hon'ble Supreme Court of India on 04.05.1979 in the very same case of **Authorised Officer vs. S.Naganatha Ayyar [(1979) 3 SCC 466]**. The ratio laid down by the Madras High Court that bona fide transfers are to be exempted from the provisions under Section 22 the Act, was held as invalid and all the actions of the Competent Authorities under Section 22 of the Act, are held valid by the Hon'ble Supreme Court of India.

9. Pursuant to the judgment of the Hon'ble Supreme Court of India, The Government issued G.O.Ms.No.103, dated 03.02.1986 under Section 18 (1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on



Lands) Act, 1961. Civil Appeals were filed in respect of few cases, based on the judgment of the Hon'ble Supreme Court of India in **Authorised Officer vs. S.Naganatha Ayyar [(1979) 3 SCC 466]** (cited supra). All those Civil Appeals were allowed on 28.09.1986. Consequently, the Land Commissioner, Chennai confirmed the order of the Government in RP No.41 of 1986 by dismissing the appeal filed by Smt.Thai @ Nanjammal and Smt.Rukmani @ Prema.

10. On 12.02.1987, Notification under the Act, was published by declaring 6.02 acres in SF No.80/2 as surplus. The Assistant Commissioner under the Act, had taken possession of the land pursuant to the Gazette Notification dated 12.02.1987. The DRO/Appellate Authority, Madurai, directed the third respondent to issue revised Notification under Section 18 (1) of the Act, on 30.12.1987.

11. Challenging the said order, the land owners filed WP No.11600 of 1988. The said writ petition was transferred to Tamil Nadu Land Reforms Special Appellate Tribunal on its constitution in the year 1988. Meanwhile, on 01.10.1988, the subject lands were assigned in favour



of six eligible beneficiaries. On 24.04.1989, Smt.K.R.Masthammal had executed a “Will” in favour of the appellant and respondents 5 and 6. Smt.K.R.Masthammal died on 23.02.1991. TRP No.437 of 1991 (WP No.11600 of 1988) filed by the land owners, was allowed by the Tribunal on 31.07.1995.

12. As per the Amended Act No.11 of 1996, the matter had been reopened on 10.05.1996. The case of the land owners were reopened on 14.08.1996 and notices were sent to Smt.Nanjammal and Smt.Prema. One of the Assignee Mr.Rajagopal sold 1.50 acres to the seventh respondent (R-7) on 11.04.2001. The third respondent cancelled the assignment on 20.03.2002.

13. Curiously, no action was taken by the land owners or the Settlees based on the order passed by the Tribunal in TRP No.437 of 1991 dated 31.07.1995. They sent representations on 19.04.2011 to restore the dead cause of action and based on the “Will” executed on 24.04.1989. The said representation was the cause for filing the Writ Petition in WP No.25731 of 2011. The relief sought for in the Writ Petition is to restore



physical possession of the land. The power is conferred to the Revenue Divisional Officer in G.O.Ms.No.34, dated 14.01.2015. It is relevant to consider the legal principles settled by the Supreme Court in the case of **Authorised Officer vs. S.Naganatha Ayyar [(1979) 3 SCC 466]**, wherein in paragraphs 10, 11 and 12 of the said judgment read as under:-

“10. April 6, 1960 is the date of commencement of the Act. October 2, 1962 is the notified date. Transfers in between these two dates have been executed by the respondents in the various appeals before us. The concrete question is whether Section 22 has the effect of rendering such transfers invalid ipso facto or whether there is need for further proof that such transfers are “sham, nominal and bogus”. The view taken by the High Court is that:

“Section 22 seems to cover only those sham, nominal and bogus transfers which are only intended to defeat the provisions of the Act. If the legislative intention is also to invalidate all bona fide transactions during the relevant period, it would have made certain consequential provisions as to what



WEB COPY

WA No.202 of 2



are the rights of the transferor and the transferee in relation to the property conveyed, and how the resultant equities between the transferee and the transferor have to be worked out. This view that Section 22 will cover only transactions of sham, nominal and bogus character which are intended only to defeat the provisions of the Act will not be inconsistent with the object provided in Section 7.”

11. The learned Judge seems to take a liberal view that transactions entered into in anticipation of the Ceiling Act will not be hit by the provisions preventing such transfers except where they are mala fide or colourable. The reason partly turns on semantics and the court argues with lexical support:

“The word ‘defeat’ normally means ‘overcome, thwart, evade, frustrate, circumvent, bypass, disappoint, prevent the accomplishment of’ ... the word ‘defeat’ in Section 22 has to be taken as having been used to import sinister



motive. Maxwell on the Interpretation of Statutes, twelfth Edn., after stating that the courts will not be astute to narrow the language of a statute so as to allow persons within its purview to escape its net, that the statute has to be applied to the substance rather than the mere form of transactions, thus defeating any shifts and contrivances which parties may have devised in the hope of falling outside the Act.”

The conclusion categorically reached by the High Court virtually emasculates Section 22 as we understand its object and import. The learned Judge winds up with these words:

“On a due consideration of the matter, I hold that under Section 22 of the Act the authorised officer is entitled to declare as void only those transfers which are sham and nominal entered into with the avowed object of defeating the provisions of the Act, without any bona fide intention to transfer title. So in the light of the



view expressed above the facts of each case have to be considered.”

Section 22, literally read, leads only to one conclusion, that any transfer, bona fide executed or not, is liable to be declared void by the Authorised Officer “if he finds that the transfer defeats any of the provisions of this Act”. There is not the slightest doubt that severally and cumulatively the provisions of the Act seek to make available the maximum extent of land, in excess of the ceiling, to be vested in Government for fulfilment of its purposes. Chapter II contains a fasciculus of provisions in this behalf and if any transfer carves out of the surplus area some land, pro tanto, the provisions of the Act are defeated. Indeed, it is not seriously disputed that such will be the conclusion if we do not read into the provisions either the condition that it does not apply to bona fide transfers, as Shri Ramamurthi would have it, or does not apply to any transfers other than sham, nominal or bogus transfers, as the High Court would have it. A policy-oriented interpretation tallies with the literal construction in the present case. The mischief rule in Heydon case and the grammatical construction which is



WEB COPY

WA No.202 of 2



the Golden Rule converge to the same conclusion in the present case.

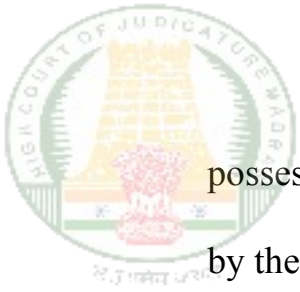
12. The policy of the law of land reform with drastic limit on holdings often drives large holders to evade by manouvres. They make gifts, execute sales or settlements, enter into other dealings to save their properties from being taken by the State. May be in a few cases, the owner has real necessity. But why sell only on the eve of land legislation? Why execute deeds, though for good purposes, only where the bill fixing ceilings is round the comer? By and large, the strategies of extrication of holdings from the arm of the law is the reason that prompts sudden affection for making gifts, sudden realisation of debts due and sudden awareness of family necessity. The legislature, astute enough not to be outwitted in its objective, puts a blanket ban on transfers which, in effect, defeat its provisions. This may cause hardship to some but every cause claims martyrs. Individual trauma is inevitable while ushering in a new economic order. This is the rationale of Section 22 of the Ceiling Act. To allow the sense of the text and to mix alien concepts is to debase the statutory metal. Likewise, laws are not value-



free and so he reads the symbols of words best who projects in the process the values of the legislation as distinguished from his own. Reading other values into the legislators' words may judicially demonetize the statute and break the comity between constitutional instrumentalities.”

14. Beyond the legal principles settled, the fact remains that the land owners or the Settlees, have failed to initiate any action during the relevant point of time. When the Tribunal allowed TRP No.437 of 1991, the Assignees were in possession of the land for long years and they continued to be in possession during the relevant point of time. The Settlees sent representation on 19.04.2011 based on the “Will” executed in the year 1989. The writ petition was filed in the year 2011 after a lapse of about 16 years from the date of passing of the order by the Tribunal on 31.07.1995.

15. Thus the writ petition itself is not entertainable and liable to be rejected on the ground of laches. More-so, the learned Special Government Pleader Mr.A.Selvendran, appearing on behalf of the respondents-1 to 4, would submit that the Assignees are also not in



possession of the subject property, since the assignment itself was cancelled by the Government on 20.03.2002.

WEB COPY

16. The counter filed on behalf of the respondents 1 to 4 in WP No.25731 of 2011, paragraphs-8 would indicate that the assignment was cancelled on 20.03.2002 following the orders of the Tamil Nadu Land Reforms Special Appellate Tribunal dated 31.07.1995. The assignment itself was cancelled, and the Assignees are not in a position to take back the possession of the land from the Government. Now the lands absolutely vest with the Government and the Government intended to utilise the same for public purposes..

17. It is made clear that the writ petition is liable to be rejected on the ground of laches. More-so the assignment made in favour of the Assignees were cancelled. Thus neither the appellants nor the contesting respondents, are entitled for any relief from the hands of this Court. Hence, the Writ Court has rightly arrived a decision and dismissed the writ petition.



18. That being the case, we are not inclined to interfere with the order of the Writ Court and consequently, the present Writ Appeal stands dismissed. However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.) (C.KUMARAPPAN,J.)

25-07-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

1. The Secretary to Government,
State of Tamil Nadu,
Revenue Department,
Fort St. George,
Chennai-600 009.
2. The District Collector,
Coimbatore District,
Coimbatore.
3. The Assistant Commissioner of Land Reforms-cum-
the Authorised Officer,
Jai Bhavan,
Gandhiji Road,
Erode District,
Erode.
4. The Tahsildar (South),
Hosur Road,
Coimbatore.



WEB COPY

WA No.202 of 2



S.M.SUBRAMANIAM, J.
AND
C.KUMARAPPAN, J.

Svn

WA 202 of 2021

25-07-2024