



W.P.No.31529 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.31529 of 2018

1.S.Kamala

2.R.Radha

3.P.Vasantha

1st to 3rd petitioners represented by
their Power Agent P.Valavan

... Petitioners

Vs.

1.The Union of India,
Represented by the Secretary to Government,
Registration Department,
Government of Puducherry,
Puducherry.

2.The District Collector,
Office of the District Collector,
Karaikal.

3.The Deputy Collector (Revenue),
Office of the Deputy Collector,
Karaikal.

4.The Sub Registrar,
Office of the Sub Registrar,
Thirunallar, Karaikal.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the first respondent herein to defreeze the GLR value and consequently direct the third respondent herein to



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accept the Settlement Deed for registration to be presented by the petitioner in respect of R.S.No.85/4, O.S.No.350/1 measuring an extent of 42 ares 50 Ca situates at Nallathur Village of Nedungadu Commune.

For Petitioners :
For P3 : Mr.S.Prem Auxilian Raj

For Respondents : M/s.G.Djearany
Government Advocate (Puducherry)

ORDER

This Writ Petition has been filed seeking for issuance of a mandamus, to direct the first respondent herein to defreeze the GLR value and consequently direct the third respondent herein to accept the Settlement Deed for registration to be presented by the petitioner in respect of R.S.No.85/4, O.S.No.350/1 measuring an extent of 42 ares 50 Ca situates at Nallathur Village of Nedungadu Commune.

2. The brief facts of the case are as follows:-

2.1. The petitioners are represented by their Power Agent namely P.Valavan, vide Power of Attorney dated 16.04.2012 and 08.05.2013, registered as Doc.Nos.92/2012 and 25/2013 respectively.

2.2. The property comprised in R.S.No.85/4, O.S.No.350/1 measuring to



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an extent of 43 ares 50 Ca situated at Nallathur Village, Nedungadu Commune, Karaikal, originally belonged to one Thangavelu Pillai @ Kunju Pillai. The petitioners mother namely Pappathi Ammal has purchased the property from the said Thangavelu Pillai @ Kunju Pillai, vide Sale Deed dated 25.06.1973, Doc.No.305/1973, registered in the Sub-Registrar Office, Thirunallar, Karaikal.

2.3. The said Pappathi Ammal died on 17.01.1997, leaving behind the petitioners as her legal heirs. The petitioners are in joint possession and enjoyment of the property. In the Government Gazette No.136 dated 17.12.1985, issued by the Government of Pondicherry, a revised final statement under Sections 11 and 13 of the Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 was published. In the said revised final statement, the subject property was declared to be retained within the ceiling area of the said Thangavelu Pillai @ Kunju Pillai. The subject property is not mentioned in the surplus land acquired by the Government in the said Gazette.

2.4. The facts being so, the respondents have not assigned the guideline value for the subject property when admittedly, the subject property was declared as lands retained by the assessee Thangavelu Pillai @ Kunju Pillai within his ceiling limit, the sale by the assessee to the petitioners mother is



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legally a valid transaction and the respondents have no legal sanction to freeze the guideline value arbitrarily. When the petitioners approached the fourth respondent for executing the Settlement Deed, the same was not entertained for registration because of freezing of guideline value. The petitioners made several representations to the respondents to defreeze the guideline value, but, none was considered till date. The respondents have no legal sanction to freeze the guideline value for the lands over which, the Government has no hold and because of arbitrary decision, the petitioners are not able to settle the property. Hence the writ petition.

3. Learned counsel appearing for the third petitioner submitted the petitioners mother purchased the property from one Thangavelu Pillai @ Kunju Pillai. According to the petitioners, a revised final statement under Sections 11 and 13 of the Pondicherry Land Reforms (Fixation of Ceiling of Land) Act, 1973, was published and in the revised final statement, the name of the owner mentioned as Thangavelu Pillai @ Kunju Pillai. He further submitted that the subject matter land, which are mentioned in the Government Gazette No.136, declared to be retained within the ceiling area of the person specified in Item No.1 and it is mentioned in Sl.No.16, Old Survey No.350/1 measuring to an extent of 42 ares 50 Ca. of wet land.



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4. Learned counsel appearing for the third petitioner relied on the order passed by this Court in W.P.Nos.3570 of 2018 etc batch dated 11.08.2022.

Relevant portion of the order is extracted below:-

“The prayer in all these writ petitions is for a mandamus directing the 1st respondent to issue guideline register value for the properties purchased by them under various sale deeds which were presented to the Registrars of Assurances for Registration.

2. Since the Registrars refused to register the documents due to absence of guideline value, the petitioners have come before this Court. It is the case of the respondents that the lands that are purchased by the petitioners are subject matter of proceedings under the Pondicherry Land Reforms (Fixation of Ceiling on land) Act, 1973. Since the proceedings are pending and the actual surplus has not been declared, the land owners cannot alienate the property. It is the further contention of the respondents that since most of the land owners have sold their entire land holding including the area that is declared as surplus and the area allowed to be retained by them, it would become difficult for the Government to recover the excess land in the hands of the purchasers if further alienations are allowed.

3. Mr.U.Karunakaran, learned counsel appearing for the petitioners, in some of the writ petitions, would submit that the land purchased by them are within the retention portion and therefore the contention of the respondents cannot be sustained. This question of alienability of land which are subject matter of Land reform proceedings under the Pondicherry Land Reforms (Fixation of Ceiling on land) Act, 1973 has been subject matter of various decisions of this Court. In W.P.Nos.12330 of 2007 and 36622 of 2006, this Court had taken note of Section 22(2) of the Act and held that



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the Registering Authority cannot refuse to register the documents on the ground of pendency of proceedings under the Land Reforms Act.

4. The difference between the provisions of Pondicherry Land Reforms Act and Tamil Nadu Land Reforms Act was considered by Hon-ble Mr.Justice V.Ramasubramanian in W.P.No.32472 of 2006, wherein, it was held that unlike the provisions of Tamil Nadu Act, the provisions of Pondicherry Act did not nullify the sale by the owner of the land which is subject matter of land reforms proceedings.

5.....

9. Mr.C.T.Ramesh, learned Additional Government Pleader appearing for the Government of Pondicherry would submit that in most of the cases the land owners/ assessees have sold their retained area also thereby they also make it difficult for the Government to recover the surplus land.

10. Under Section 22 it is open to the Government to proceed against the transferees in case recovery is not possible. If any assessee/ land owner had sold the entirety of his or her holding then it will be open to the Government to take action against the transferees who have purchased later or proceed under Section 22(2)(b) to recover proportionate land from each of the transferees when there are several transferees. Therefore, the rights of the Government to recover the surplus land is very well protected under Section 22. The indirect restraint on alienation by not providing the guideline value cannot be sustained.

11. Therefore, all these writ petitions will stand allowed. A mandamus will issue to the respondents to furnish the guideline value and register the sale deeds that are presented for registration. Such action shall be completed within a period of three (3) months from the date of receipt of the copy of the order. No costs. Consequently, the connected writ miscellaneous petitions are closed.”



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5. Learned Government Advocate appearing for the respondents has filed Counter Affidavit in the month of September 2022. Relevant paragraph is extracted hereunder:-

“6. I submit that though the petitioners' land situated in R.S.No.85/4, O.S.No.350/1 measuring to an extent of 0-42-50 HACa in nallathur hamlet of Kurumbagaram Revenue Village was declared as retention portion by the land owner in the Form 10 issued by the then Authorised Officer in Extraordinary Gazette No.136, dated 17.12.1985, the entire holdings of the land owner were assigned 'Zero' value in the Guide Line Register (GLR). If the land owner alienated lands from his Surplus holdings, then the equivalent extent of holdings is to be acquired from the land owners Retention holdings. For this reason, the entire land holding of the land were assigned 'Zero' value in GLR, so that the land owner is prohibited from alienating the Retention holdings and the deficiency of surplus holdings (to be taken over by the govt.) can be made good from the retention holdings in the possession of the land owner.”

6. Learned Government Advocate appearing for the respondents submitted that the petitioner also hold the surplus land.

7. Heard both sides.

8. This Court is concerned only with the retention land and not the surplus land and according to the Government Gazette, the subject land is a



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retention land and the survey number, extent and land type is clearly mentioned
in the Gazette.

9. In view of the above, this Court is of the considered view that the writ petition has to be allowed. Accordingly, this Writ Petition is allowed and the fourth respondent is directed to register the Settlement Deed of the petitioners and defreeze the guideline value in respect of the retention lands. This exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

11.07.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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To

1. The Union of India,
Represented by the Secretary to Government,
Registration Department,
Government of Puducherry,
Puducherry.



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2.The District Collector,
Office of the District Collector,
Karaikal.

3.The Deputy Collector (Revenue),
Office of the Deputy Collector,
Karaikal.

4.The Sub Registrar,
Office of the Sub Registrar,
Thirunallar, Karaikal.

J.SATHYA NARAYANA PRASAD, J.

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