BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A(MD)No.987 of 2024
and
C.M.P(MD)No.7180 of 2024

1.The Commissioner of Land Reforms,
Ezhilagam,
Chepauk,
Chennai – 5.

2.The Revenue Divisional Officer,
Pudukkottai,
Pudukkottai District.

3.The Tahsildar,
Tirumayam Taluk,
Pudukkottai District. ... Appellants/Respondents

vs.

1.S.Pitchammal

2.R.Govindasamy ... Respondents/Writ Petitioners

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 25.03.2024 made in W.P(MD)No.4728 of 2024.

For Appellants : Mr.P.S.Raman
Advocate General
Assisted by
Mr.S.Shaji Bino
Special Government Pleader

For Respondents : Mr.C.Arul Vadivel @ Sekar
Senior Counsel
for Mr.T.Pon Ram Kumar
for R.2

JUDGMENT

[Judgment of the Court was made by R.SURESH KUMAR, J.)

This intra Court Appeal has been directed against the order passed by the Writ Court, dated 25.03.2024 made in W.P(MD)No.4728 of 2024.

2.That the prayer sought for in the said Writ Petition is for a Mandamus to direct the respondents herein to treat the second respondent's enquiry report in Na.Ka.No.A2/709/2018 dated 26.12.2023 as final order pursuant to an enquiry conducted under Section 9(2)(b) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1961 in respect of lands to an extent of 274 acres of punja lands in S.Nos.278/1, 280/2, 273/7, 301, 302 and 303/2 situated in the village of Pudhunilaivayal, Thirumayam, Taluk, Pudukkottai District.

3.With regard to the land in question, the provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (in short hereinafter referred to as 'the Act') were invoked, proceedings had been initiated in the year 2003, ultimately on 16.07.2019, the authorized officer ie., the Revenue Divisional Officer, Pudukkottai had issued the memorandum holding that the writ petitioners, who are the respondents herein, are not possessing any surplus land.

4.However, the first appellant/first respondent took a *suo motu* revision and ordered enquiry on 11.05.2022. It was held that the proceedings of the Revenue Divisional Officer, Pudukkottai, dated 16.07.2019, suffer from infirmity, therefore, it was quashed. Therefore, the Revenue Divisional Officer, Pudukkottai was directed to proceed with the *de novo* enquiry under Section 9(2)(b) of the Act, accordingly, *de novo* enquiry has been conducted by the Revenue Divisional Officer and he had come to the conclusion to pass an order, pursuant to such *de novo* enquiry.

5.However, instead of passing the order, the Revenue Divisional Officer had sent a communication to the first appellant/Land Commissioner seeking his nod or opinion or permission to pass orders.

6.Only at that juncture, the said Writ Petition had been filed, which was decided by the learned Judge through the impugned order, dated 25.03.2024, where the learned Judge has observed that when the Land Commissioner already directed the Revenue Divisional Officer, Pudukkottai to pass an order, after *de novo* enquiry, he should have passed an order instead of sending a report to the Land Commissioner seeking his nod or permission to pass orders.

7.That is the reason why on 08.01.2024, the Commissioner of Land Reforms directed the Revenue Divisional Officer to the following effect:

I invite your attention to the references cited. In the reference 2nd cited you are requested to initiate the Land Ceiling proceedings, on the holdings of Thiru. A.K. Kuttaiyan Chettiar, as on 15.02.1970, after perusal of the village accounts and records. In the reference 3rd cited, you have sent a report stating that the subject lands are not attracted under the Tamil Nadu Land Reforms Act and also seeking instructions to give appropriate reply to the petitioners.

In this regard, it is to state that the Revenue Divisional Officer/Authorized Officer has to pass orders on the holdings of the Land Owner on the basis of enquiry and available records.

I, therefore request you to pass orders in the form of proceedings and same copies of the order to the Petitioners and Respondents and also send a copy of the order to this office.

Yours faithfully
Sd/- N.Venkatachalam,
Commissioner of Land Reforms.

/True Copy/

Public Information Officer

8.Taking note of these aspects, the learned Judge had ultimately directed the second respondent/the Revenue Divisional Officer to pass a formal order that means based on the *de novo* enquiry he has completed, such an order to be passed.

9.Aggrieved over the said order passed by the learned Single Judge, the appellants though have directed this appeal, the learned Advocate General, who appeared for the appellants, has contended that at one place in paragraph 3 of the impugned order, the learned Judge has recorded that the Court wanted to know if the Revenue Divisional Officer, Pudukkottai is having a second thought and in another place, he has further recorded that answer was in the negative. In this context, the said recording of the learned Judge was not based on any instructions given by the Revenue Divisional Officer through the learned Government counsel, therefore, to that extent, such an observation that has been made by the learned Judge shall not stand in the way for the Revenue Divisional Officer, Pudukkottai to pass orders, of course, on the basis of the enquiry by way of *de novo* enquiry already been concluded. Only to that extent, the appellants want a clarification from this Court.

10.Heard Mr.C.Arul Vadivel @ Sekar, learned senior counsel appearing for the second respondent, who would submit that it was a direction that has been given by the Land Commissioner to have a *de novo* enquiry and to pass orders invoking Section 9(2)(b) of the Act. Pursuant to which a *de novo* enquiry had been concluded and based on such a conclusion, normally orders would be passed by the appropriate authority ie., the Revenue Divisional Officer, Pudukkottai, whereas instead of passing order what was his conclusion that has been reflected in the report that he has sent to the Land Commissioner, therefore, the ultimate conclusion to be arrived at has already been arrived at by the Revenue Divisional Officer, therefore, instead of passing the formal order since he has sent a report to the Land Commissioner, the Land Commissioner in turn by communication dated 08.01.2024, directed the Revenue Divisional Officer to pass orders ie., format order, therefore, the only job left to the Revenue Divisional Officer is to pass the format order hence at that juncture, no other interference is called from any quarter including the Land Commissioner and therefore, the present appeal is totally misconceived and therefore, it has to be dismissed and the Revenue Divisional Officer has to be allowed to pass a formal order based on the *de novo* enquiry, he has already concluded.

11.The said rival submissions made by the learned Advocate General as well as the learned senior counsel appearing for the parties have been taken note of and we have perused the materials placed before this Court.

12.As apprehended by the appellants, as has been projected by the learned Advocate General, the mere observation that has been made by the learned Judge that he wanted to know if the Revenue Divisional Officer, Pudukkottai is having second thoughts and the answer was in the negative, would not alter the situation because the *de novo* enquiry as directed earlier has been completed at the hands of the Revenue Divisional Officer and based on the *de novo* enquiry, he has come to a conclusion also, which is reflected in the report which has been already sent to the Land Commissioner. Therefore, the Revenue Divisional Officer has to pass a necessary order, of course, in the format. Therefore, the learned Judge has observed that his earlier enquiry report, dated 26.12.2023 will have to be reformatted. Even if such an observation has not been made by the learned Judge, the natural corollary would be that the Revenue Divisional Officer has to pass an order, of course, based on the conclusion he has reached pursuant to the *de novo* enquiry which in fact reflected admittedly in his report, he has sent to the Land Commissioner.

13.The Land Commissioner also has only directed the Revenue Divisional Officer to pass an order instead of sending the report to the Land Commissioner. Therefore, the Land Commissioner need not have any apprehension based on which this Appeal need not have been filed.

14.Therefore, the observation whatever has been made by the learned Judge in the order impugned would not alter the situation, therefore, the Revenue Divisional Officer can pass final orders pursuant to the *de novo* enquiry already been completed and such an order, he can pass at the earliest.

15.With these discussion, observation and conclusion, we deem it that this Writ Appeal can be disposed of. Accordingly, it is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.K.,J.] [G.A.M.,J.]
10.06.2024

NCC : Yes / No
Index : Yes / No

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R.SURESH KUMAR,J.
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ORDER MADE IN
W.A(MD)No.987 of 2024

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