



W.P.(MD) Nos.19872 of 2015 etc., batch

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	28.10.2024
Pronounced On	07.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.(MD) Nos.19872 and 19879 of 2015
and W.P.(MD) Nos.22149 and 22150 of 2018

and

M.P.(MD) Nos.1, 2 of 2015, M.P.(MD) No.2 of 2015, W.M.P.(MD) Nos.
20082, 20083 and 20084 of 2018

and

W.M.P. (MD) Nos.20085, 20086 and 20087 of 2018

W.P.(MD) No.19872 of 2015

P.Jeya

... Petitioner

Vs.

- 1.The Commissioner of Land Reforms,
Ezhilagam, Chepauk,
Chennai – 600 005.
- 2.The Assistant Commissioner of Land Reforms,
Madurai.
- 3.The Authorized Officer (Land Reforms)-cum-
Revenue Divisional Officer,
Madurai.
- 4.The Tahsildar,
Madurai North Taluk,
Madurai.



W.P.(MD) Nos.19872 of 2015 etc., batch

5.Dhanam

6.Gandhi

7.Vasanth

8.S.Ramachandran

9.S.Karikalan

10.T.Ponmalai

11.S.Manonmani

... Respondents

Prayer in W.P.(MD) No.19872 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent in Na.Ka.No.S/M.R.4/225/13/58-61, dated 23.07.2015 insofar rejecting the petitioner's claim to declare the land in S.No.312/3, R.S.No.62/3 measuring 1.69 acres of Kannanendal Village, Madurai North Taluk, Madurai District is not a surplus land under the Tamil Nadu Land Ceiling Act, quash the same and direct the third respondent to declare the above land is not a surplus land and consequently forbear the first to fourth respondents from disturbing the petitioner's possession and enjoyment of the above lands.

W.P.(MD) No.19879 of 2015

1.Vasanth

2.S.Ramachandran

3.S.Karikalan



W.P.(MD) Nos.19872 of 2015 etc., batch

4.T.Ponmalai

5.S.Manonmani

... Petitioners

Vs.

1.The Principal Secretary,
Commissioner of Land Reforms,
Chepauk, Chennai – 600 005.

2.The District Collector,
Madurai District, Madurai.

3.The Authorized Officer (Land Reforms)-cum-
Revenue Divisional Officer,
Madurai.

4.P.Jeya

5.Dhanam

6.Gandhi

(R5 and R6 are impleaded vide Court order
dated 27.06.2024 in W.M.P.(MD) No.366 of 2018
in W.P.(MD) No.19879 of 2015)

... Respondents

Prayer in W.P.(MD) No.19879 of 2015: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records from the third respondent leading to pass the impugned order dated 23.07.2015 passed in Na.Ka.En.S/MR4/225/13/58-61 and quash the same and consequently direct the third respondent to declare that the lands to an extent of 1.69 acres in Survey No.312/3, New Survey No.62/3, Kannanendal Village, Madurai North, Madurai District is not a surplus land.



W.P.(MD) Nos.19872 of 2015 etc., batch

WEB C W.P.(MD) No.22149 of 2018

Dhanam (Died)

S.Latha

(Petitioner is substituted vide Court order
dated 27.06.2024 in W.M.P.(MD) No.11571 of 2023
in W.P.(MD) No.22149 of 2018)

... Petitioner

Vs.

- 1.The Commissioner of Land Reforms,
Ezhilagam, Chepauk,
Chennai – 600 005.
- 2.The Assistant Commissioner of Land Reforms,
Madurai.
- 3.The Authorized Officer (Land Reforms)-cum-
Revenue Divisional Officer,
Madurai.
- 4.The Tahsildar,
Madurai North Taluk,
Madurai.
- 5.P.Jeya
- 6.Vasantha
- 7.S.Ramachandran
- 8.S.Karikalan
- 9.T.Ponmalai
- 10.S.Manonmani

... Respondents



W.P.(MD) Nos.19872 of 2015 etc., batch

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Prayer in W.P.(MD) No.22149 of 2018: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.S/M.R.4/225/13/58/61 dated 23.7.2015 and quash the same and consequently direct the first to fourth respondents herein to confirm the Assignment Order dated 14.06.2002 in favour of the petitioner.

W.P.(MD) No.22150 of 2018

Gandhi

... Petitioner

Vs.

- 1.The Commissioner of Land Reforms,
Ezhilagam, Chepauk,
Chennai – 600 005.
- 2.The Assistant Commissioner of Land Reforms,
Madurai.
- 3.The Authorized Officer (Land Reforms)-cum-
Revenue Divisional Officer,
Madurai.
- 4.The Tahsildar,
Madurai North Taluk,
Madurai.
- 5.P.Jeya
- 6.Vasantha
- 7.S.Ramachandran



W.P.(MD) Nos.19872 of 2015 etc., batch

8.S.Karikalan

9.T.Ponmalai

10.S.Manonmani

... Respondents

Prayer in W.P.(MD) No.22150 of 2018: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.S/M.R.4/225/13/58/61 dated 23.7.2015 and quash the same and consequently direct the first to fourth respondents herein to confirm the Assignment Order dated 14.06.2002 in favour of the petitioner.

For Petitioner : Mr.K.P.Narayanakumar
in W.P(MD) No.19872 of 2015

For Petitioners : Mr.K.P.Narayanakumar
in W.P.(MD) No.19879 of 2015

For Petitioners : Mr.M.Sricharan Rangarajan
Senior Counsel
for M/s.Veera Associates
in W.P.(MD) Nos.22149 and 22150 of 2018

For Respondents :

For R1 to R4 : Mr.Baskaran
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader
in W.P.(MD) Nos.19872 of 2015,
W.P.(MD) Nos.22149 and 22150 of 2018



W.P.(MD) Nos.19872 of 2015 etc., batch

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- For R1 to R3 : Mr.Baskaran
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader
in W.P.(MD) No.19879 of 2015
- For R4 : Mr.N.Madhavagovindan
in W.P.(MD) No.19879 of 2015
- For R5 and R6 : Mr.M.Sricharan Rangarajan
Senior Counsel
for M/s.Veera Associates
in W.P.(MD) Nos.19872 and 19879 of 2015
- For R5 to R10 : Mr.K.P.Narayanakumar
in W.P.(MD) Nos.22149 and 22150 of 2018
- For R7 to R11 : Mr.N.Madhavagovindan
in W.P.(MD) No.19872 of 2015

COMMON ORDER

By this Common Order, all the Writ Petitions are being disposed of.

2. In these Writ Petitions, the respective petitioners have challenged the impugned order dated **23.07.2015** passed by the Assistant Commissioner for Land Reforms, since designated as Authorized Officer (Land Reforms)-cum-Revenue Divisional Officer, Madurai pursuant to **G.O.Ms.No. 34, Revenue Department**, dated **14.01.2015**, who is the third respondent in **W.P.(MD) Nos.**



W.P.(MD) Nos.19872 of 2015 etc., batch

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19879 & 19872 of 2015/second respondent in W.P.(MD) Nos.22149 & 22150

of 2018.

3. According to the petitioners, by the Impugned Order dated **23.07.2015**, the rights of the respective petitioners have been diluted. The operative portion of the Impugned Order reads as under:-

தமிழ்நாடு
பேர்தலைவர் தலைவர் 1961-ல் அன்று திருமதிபிச்சையம்மாள் என்பவருக்கு
பாத்திரப்பட்டு, பின்னர் 11.4.1962-ல் துண்டு திரு.அழகர்சாமி என்பவருக்கு
விற்பனை செய்யப்பட்டது. மேற்கண்ட விற்பனை நில உச்சவரம்பு சட்டம் 1961-ன்
சட்ட துவக்க நாளிலிருந்து அந்நிலை வெளியிடப்பட்ட நாட்களுக்கு இடைப்பட்ட
தேதியில் விற்பனை செய்யப்பட்டுள்ளது. இவ்விற்பனை ரேசிவ் 22-ன் கீழ்
செலுத்தக்கூடிய 1964-ல் அந்த ஆண்டு பிறப்பிக்கப்பட்டது. நில உச்சவரம்பு
சட்டத்தின் கீழ் மேற்கொண்ட நடவடிக்கையை ஆட்சேபித்து முறையிடுகலோ,
எவ்விதமான வழக்குகளோ, காலத்தும் செய்து தபர்க்கால் தாக்கல்
செய்யப்படவில்லை.

நில உச்சவரம்பு சட்டம் 1961-ன்படி வரைய அறிக்கை 10(1)
வெளியிடப்பட்டதை தொடர்ந்து ரேசிவ் 10(5)-ன் கீழ் நில கலாண்டாராரோ, கிளாமர்
பெற்ற திரு.அழகர்சாமி என்பவரோ ஆவது துவக்களிடமிருந்து கிளாமர்
வாங்கியவர்களோ எவ்விதமான ஆட்சேபமையும்கு தெரிவிக்கவில்லை. ரேசிவ் 10(5)-
ன்படி எந்தவிதமான நிலகலாண்டார் மேல்முறையிடுகலும் கோரப்படவில்லை. ரேசிவ்
11(2)-ன் கீழ் நிலத்திப்படிமத்தில் எந்தவிதமான முறையிடுகலும் செய்யப்படாததால்
அரசு உபரி நிலமாக அறிவிக்கை செய்யப்பட்டது சரிபாசாதாரமும்.

பார்வை 13-ல் கண்ட அரசுமன்ற நிலை எண். 34 வருவாய்த்துறை
என்.ஆர்.எண். 1(2) நண்: 14.01.2015-ன்படி நிலச்சீர்திருத்த இளங்களில் பட்டா
வழங்கும் அதிகாரம் வருவாய்க் கோட்டாட்சியருக்கு வழங்கப்பட்டதால்
ஒப்படைக்கப்பட்ட கோடுகளை பரிசீலனை செய்துவிட்டு அனுதாரர்கள் தளம், காத்தி
வகையறாவினர், ஜெயா மற்றும் 9 பங்கர் ஆகியோர்களின் எழுத்து ஆல
லாக்குறவங்கள் மற்றும் ஆளாங்கள் ஆவது செய்யப்பட்டன. இதில் ஜெயா மற்றும்
ஜவர் தரப்பினர் மேற்கண்ட நிலம் அரசு உபரி நிலம் அல்ல என்று உத்தரவு பிறப்பிக்க
கோரியுள்ளனர். திருமதி.தளம் மற்றும் காத்தி ஆகியோர் தங்களுக்கு வழங்கிய நில
ஒப்படைப்பை ஊர்ஜிதம் செய்து உத்தரவு வழங்குமாறும் கோரியுள்ளனர்.

தமிழ்நாடு நிலச்சீர்திருத்த சட்டம் 1987-ஆம் அன்று
நிலச்சீர்திருத்தங்கள் (நில உச்சவரம்பை நினைவித்தல்) சட்டத்தின் (தமிழ்நாடு
சட்டம் 56/1987)ன் கீழ்க்கண்டவாறு தகுதி உடையவராயிருக்க வேண்டும் என
அறிவிக்கப்பட்டுள்ளது.
5(7) (a) (VII)
1) இச்சட்டத்தின் முறைக கணமாக அறிவிக்கப்பட்ட நிலத்தை இச்சட்ட
துறைக தளவாந்து பரிசீ செய்து வந்தவரும், மேற்படி நிலம் நிலகலாக அறிவிக்கப்பட்ட
காரணத்தால் தனி பரமுள்ள நிலம் முறையதும் இறுத்தவரும்கு ஒரேவர்.



2) ஓரளவு பயிரிடும் குத்தகைதாரர்களும், ஓரளவு நிலச் சொந்தக்காரர்களும் உள்ள ஒருவரின் நிலம், இச்சட்டப் பிரயோகத்தின் காரணத்தால் மூன்று ஏக்கர் புன்செய் அல்லது ஒன்றரை ஏக்கர் நன்செய் நிலத்திற்கு குறைவாக குறைக்கப்படுமானால் அந்நபர்.

3) நிலத்தைத்தானோ, அல்லது தன் குடும்பத்தைச் சார்ந்த எவரையாவது கொண்டோ பயிர் செய்வதாக தாழ்த்தப்பட்ட வகுப்பைச் சேர்ந்த அல்லது பழங்குடியினரான நிலமற்ற விவசாய தொழிலாளி.

4) ஆயுதப் படைகளில் உறுப்பினராக இருக்கிற அல்லது இருந்துள்ள ஒருவர் இந்திய தேசிய இராணுவம் அல்லது முன்னாள் அசாம் துப்பாக்கிப் படை அல்லது வேறெந்த பாரா மிலிடெரி படைப்பைச் சேர்ந்த நபர்கள் மற்றும் ஆயுதப் படையைச் சேர்ந்த உறுப்பினர் மேற்படி படைகளிலிருந்து ஓய்வு பெற்ற அல்லது 1950-ம் ஆண்டு சனவரித் திங்கள் 25ஆம் தான் விடுவிக்கப்பட்ட ஒருவரும், மற்றும் மேற்கூறப்பட்ட படைவீரர்கள் போரில் மரணமடைந்திருப்பின் அவர்களைச் சார்ந்திருந்த அவரது மனைவி, விதவைத் தாய், வயது முதிர் மகன்கள் மற்றும் வயது முதிர் மகள்கள் இடில் அடங்குவர். போரில் மரணமுடைய ஆனால் அப்போரின் காரணமாக உடல் ஊனமுற்றோர், பணியிலுள்ள இராணுவ வீரர்கள் தங்கள் பெயரிலேயே மிகை நில ஒப்படைப் பெறத் தகுதி பெற்றவர்களாவர்.

5) நிலத்தைப் பயிரிடுவதில் தன் சொந்த உடலுழைப்பை அல்லது தன் குடும்பத்தைச் சார்ந்த எவரது உடலுழைப்பையாவது பயன்படுத்த மனமுள்ளவரும், ரூ.10,000 (ரூபாய் பத்தாயிரம் மட்டும்)த்திற்கு மேற்படாத சொத்துக்களை இந்தியாவிற்கு கொண்டு வந்தவருமான பர்மா அல்லது இலங்கை அகதி ஒருவர்.

6) நிலத்தை, தானோ அல்லது தன் குடும்பத்தைச் சார்ந்த எவரையாவது கொண்டோ பயிர் செய்வதும் மேலே இலம் (4-ல்) குறிப்பிடப்பட்டவரல்லாத வருமான நிலமற்ற விவசாய தொழிலாளி ஒருவர்.

7) மூன்று ஏக்கர் நன்செய் நிலம் அல்லது ஒன்றரை ஏக்கர் புன்செய் நிலத்திற்குக் குறைவாக நிலம் வைத்திருக்கும் பயிரிடும் குத்தகைதாரர் ஒருவர்.

8) நிலமற்ற விவசாயத் தொழிலாளர்களான உறுப்பினர்களாகக் கொண்ட பண்ணைக் கட்டுறவுச் சங்கம், ஆனால், அச்சங்கம் ஏற்கனவே நிலமேதும் வைத்திருப்பின் அந்நிலத்தின் பரப்பும் அச்சங்கத்திற்கு ஒப்படை செய்த நிலத்தின் பரப்பும் சேர்ந்து உச்சவரம்பு பரப்பிற்கு மேற்படக்கூடாது.

மேற்கண்ட தகுதியின் அடிப்படையில் இருதரப்பினரின் மனுக்கள் பரிசீலனை செய்யப்பட்டதில் திருமதி.தளம் மற்றும் கரந்தி ஆகியோர் மதுரை கோ.புதூர் மண்மலைமேடு, கதவுஎண்.28 மற்றும் 28A-ல் வசித்து வருகிறார்கள் என்றும், மேற்படி புலத்தினை தானோ தனது குடும்பத்தைச் சார்ந்த எவரையோ கொண்டு பயிர் செய்யவில்லை என்றும், விவசாயத் தொழிலாளிகள் அல்ல



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W.P.(MD) Nos.19872 of 2015 etc., batch

என்பதும் விசாரணையின் தெரியவருவதற்கு எனவே, மேற்படி பரத்தில் திருமதி.தமன் மற்றும் காந்தி ஆகியோர் தயிற்றுநாடு நிலச்சீர்திருத்த சட்டம் 1985-ன்படி நில ஒப்படை வழங்கத் தகுதியுற்றவர்கள் என்பது தெரியவருகிறது.

மேற்கண்ட நிலம் திருமதி.பிச்சையம்மாள் என்பவரிடமிருந்து பிரிவு 18(1)-ன்படி நான் 3.1.1985-ஆன்று உபரி நிலமாக அறிவிக்கை செய்யப்பட்டது. அறிவிக்கை செய்யப்பட்ட நாளிலிருந்து மேற்கண்ட நிலம் பிரிவு 18(3)-ன்படி அரசு நிலமாக பரணிக்கப்பட்டது என்று அந்த நாளிலிருந்து எவ்விதமான உரிமைமயம் வரலாறும் கோரமுடியாது என்று தெரிவிக்க இப்பிரிவில் தெரிவிக்கப்பட்டுள்ளது. இந்த நிலத்தினை மதுதாரர் மேற்படி 18(1)-ல் அறிக்கை வெளியிடப்பட்ட பின்பு கிராமம் பெற்றுள்ளதால் கிராமம் செலவத்தக்கதல்ல. மேலும் இந்த சட்டப்பிரிவு 18(1)-ல் கீழ் வெளியான உபரி நில அறிவிப்பை எதிர்த்து நில கவனத்தாரர்களோ, நிலத்தை கிராமம் பெற்று திரு.அழகன்மாசி முதல் பிறகு கிராமம் பெற்று ஏனைய நபர்களோ என்றும் மத்தவிதமான ஆட்சேபணை எதுவும் தெரிவிக்கவில்லை. இது தொடர்பாக வழக்குகள் எதுவும் தொடரப்படவில்லை. எனவே, மதுதாரர் உபரியாக அறிவிக்கப்பட்ட நிலத்திற்கு உரிமை கோருவது சட்டப்படி செல்லத்தக்கதல்ல.

திருமதி.ஜெயா மற்றும் ஜலின் தந்தை திரு.பொன்னையலமலை என்பவர் உதவனாதாரராக இருந்து வந்ததாக தெரிவிக்கப்பட்டுள்ளது. ஆனால், மேற்கண்ட நிலம் ஒப்படை வழங்கப்பட்ட 1985-ல் ஆண்டு முதல் நில ஒப்படை இரத்து செய்யப்பட்ட 1993-ல் ஆண்டு வரை எவ்வித ஆட்சேபணை மனுக்கள் எதும் தெரிவிக்கவில்லை.

மேலும், மதுரை வடக்கு வட்டாட்சிபர் பின்வருமாறு அறிக்கை சுமர்ப்பித்துள்ளார்.

மதுரை வடக்கு வட்டம், உளம்பாளைய, உள்வட்டம், கண்ணனேந்தல் கிராமம், புலவன், 62/3 என்பது கீழ்க்கண்டவாறு கிராமக்கணக்குகளில் தாக்கவாசிபுள்ளது.

புலவன்.	விலைத்தரணம்	பட்டா எண்.	பட்டாதாரர் பெயர்
62/3A	0.34.0	1327	உச்சவாம்பு உபரி நிலம்
62/3B	0.34.5	1323	உச்சவாம்பு உபரிநிலம்

கண்ணனேந்தல் கிராமத்தின் அடங்கல் பதிவு எண் 1410 முதல் 1424 வரை மதுரை எண்.312/3 மற்றும் 312/4 புலவன்.62/3 மற்றும் 62/3B-ல் சாகுபடி குறித்த பதிவுகள் ஏதுமில்லாமல் தரிசாகக் குறிப்பிடப்பட்டுள்ளது. மேற்கண்ட பச்சையில் விவசாயம் ஏதும் தடைபெறவில்லை. மேற்படி உபரி நிலம் மதுரை மாநகராட்சிக்கு உட்பட்ட தனியார் நிலமாக மாற்றப்பட்டது. தற்போது பாளைய



W.P.(MD) Nos.19872 of 2015 etc., batch

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11

வசதியற்ற விவசாயத்திற்கு தகுதியற்ற சினை மதிப்பின் மலர்ப் பகுதி இடங்களாக மாறியுள்ளது. மேலும், கண்ணனேந்தல் கிராமம், தற்போது ஸ்தலாட்சி எல்லைக்குள் கொண்டு வரப்பட்டுள்ளதால் மேற்படி நிலத்தில் கற்றிதழம் குடியிருப்புகள் உருவாகிவிட்டது. மேற்படி நிலத்தைக் கற்றிதழம் பகுதிகளின் நிர்வாகனில் மதிப்பு அரசு வழிகாட்டி மதிப்பீட்டின் படி ஒரு ஏக்கர் ரூ.500/- (ஐஸ்ட் 2,18,000/-) ஆகும்.

தமிழ்நாடு நிலச்சீர்திருத்த (நிலை நிலங்கள் விநியோக) சட்டம் 1965-ன்படி விவசாயத்திற்குப் பயன்படக்கூடிய நிலங்களுக்கு மட்டுமே உபரி நில ஒதுக்கப் பட்டிருக்கிறது. மதுரை வட்டம் வட்டாட்சியின் அறிக்கையின்படி மலர் 1410 முதல் 1424 வரையான ஆட்களில் மேற்படி முயல்களில் கரையடி குளத்தி் பதில்கள் எதுவுமில்லை எனவும், அவை தரிகாரவே உடனான எனவும், மேலும் இடங்களைக் கற்றிதழம் பகுதிகள் குடியிருப்பு பகுதிகளாக உள்ள எனவும் குறிப்பிடப்பட்டுள்ளது. எனவே, தமிழ்நாடு நிலச்சீர்திருத்த (நிலை) சட்டம் 1965-ன்படி உரிமை நில ஒதுக்கப் பட்டிருக்க மார்க்கமில்லை எனவே, திருமதி.தனம் மற்றும் கந்தி ஆகியோர்களுக்கு தமிழ்நாடு 1961-ம் ஆம் ஆண்டு நிலச்சீர்திருத்தங்கள் (நில உச்சவரம்பு தீர்மானித்தல்) சட்டத்தின் (தமிழ்நாடு சட்டம் 56/1961) கீழ் உபரி நிலம் ஒதுக்க வழங்க இயலாது என உத்திரவிடப்படுகிறது.

மேலும், நில உச்சவரம்பு சட்டம் 1961-ன்படி வரைய அறிக்கை 10(1) வெளியிடப்பட்டதை தொடர்ந்து பிரிவு 10(5)ன் கீழ் நில கவனத்தாளோ, கிராமம் பெற்ற திரு.அழகர்சாமி என்பவரின் அல்லது அவர்களிடமிருந்து சிவசுயம் வாங்கியவர்களோ எவ்விதமான அட்சேபமையும் தெரிவிக்கவில்லை. பிரிவு 10(5)ன்படி எந்தவிதமான நில உச்சவரம்பு பேரமன்றமீறலும் கோரப்படவில்லை. பிரிவு 11(2)ன் கீழ் நிலத்திப்பாயத்தில் எந்தவிதமான முறைமீறலும் செய்யப்படாததால் அரசு உபரி நிலமாக அறிவிக்கை செய்யப்பட்டது சரியானதாகும். எனவே, திருமதி.ஜென மற்றும் ஜுதி தங்கள் கண்ணனேந்தல் கிராமம், முயலம்.312/3-ல் (பதிவு எண். 62/36 மற்றும் 62/37) 1.63 ஏக்கர் உபரி நிலம் அல்ல என உத்திரவு வழங்கக் கோரியுள்ளதை ஏற்க இயலாது என உத்திரவிடப்படுகிறது.

அதிகாரம் பெற்றிருக்கிற (நிலை) மற்றும் வருவாய் கோட்டாட்சி, மதுரை.

மேலும்:
1.திருமதி.தனம்,
க/பெ.பொன்னுச்சாமி,
எண்.28, மண்டலகாவேரி,
கேபத்தூர்,
மதுரை-7



W.P.(MD) Nos.19872 of 2015 etc., batch

WEB COPY

4. By the Impugned Order dated 23.07.2015, the assignment in favour of the petitioner in **W.P.(MD) No.22149 of 2018** and the petitioner in **W.P.(MD) No.22150 of 2018** namely, Mrs.Dhanam and Mrs.Gandhi have been cancelled and the rights claimed by the other two petitioners, namely Mrs.P.Jeya, petitioner in **W.P.(MD) No.19872 of 2015** and Mrs.Vasantha, petitioner in **W.P.(MD) No.19879 of 2015** have been rejected.

5. The petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018** namely, Mrs.Dhanam and Mrs.Gandhi have challenged the impugned order dated **23.07.2015** de-recognizing their rights as assignee of the land measuring an extent of 1.69 Acres in S.No.312/3 (New S.No.62/3) situated at Kannanyenthal Village, Madurai North Taluk, pursuant to an assignment made in their favour earlier on **14.06.2002** by the Assistant Commissioner (Land Reforms), Madurai, out of the total extent of **5.66 Acres** of land. The aforesaid land was earlier assigned to one **Mr.Karuppusamy** and **Mrs.P.S.Kamala**.

6. The subject land originally belonged to one Mrs.Rani Ponnammal. Thereafter, it came into the hands of one Mrs.Pichaiammal pursuant to a “Will”



W.P.(MD) Nos.19872 of 2015 etc., batch

executed dated **23.07.1961** on **28.09.1961** by Mrs.Rani Ponnammal in favour of Mrs.Pichaiammal after the death of Mrs.Rani Ponnammal.

7. The holdings of Mrs.Pichaiammal were determined as 231-22 ordinary acres equivalent to 153-643 standard Acres as on **28.09.1961**. After following the procedures, the Final Statement under Section 12 of the Act was published in the Tamil Nadu Government Gazette (TNGG) dated 18.07.1973. The notification under Section 18(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (Tamil Nadu Act 58/61) [hereinafter to as “the Principal Act”] was published in the TNGG dated **29.08.1973**.

8. The said notification was cancelled and a revised notification under Section 18(1) of the Act was published in the TNGG dated **09.01.1985** declaring an extent of **201.60** Ordinary Acres equivalent to **131.661** Standard Acres as surplus lands in the hands of Mrs.Pichaiammal.

9. However, before the said Principal Act even before the Principal Act received the President's assent on **13.04.1962** and came into force and before the Principal Act was notified on **02.05.1962** and, Mrs.Pichaiammal, the legatee



W.P.(MD) Nos.19872 of 2015 etc., batch

under the Will dated **23.07.1961** of Mrs.Rani Ponnammal sold the subject land to one Mr.T.V.Alagarsamy by registering a **Sale Deed** dated **11.04.1962**.

10. The sale was ultimately Registered on **28.04.1962** in favour of Mr.T.V.Alagarsamy i.e., after the date of assent of the President on **13.04.1962** and subsequent to the date of its publication in the Official Gazette on **02.05.1962**.

11. It is stated that Mr.T.V.Alagarsamy sold the land to one Mr.B.N.Subburamier in the year **1965**, who is said to have died intestate leaving no Class-I heirs. It appears that the petitioners in **W.P.(MD) Nos.19872 & 19879 of 2015** namely, Mrs.Jeya and Mrs.Vasanth who are the sister and sister-in-law claimed rights over the land through their father and father-in-law respectively namely **Mr.A.S.Ponnaiah Konar** as a “cultivating tenant” under the provisions of the Tamil Nadu Cultivating Tenants Protection Act,1955 [Act 25 of 1955] from Mr.P.N.Subburamier. However, there are no records to show that the land, indeed, had been sold to Mr.T.V.Alagarsamy.



W.P.(MD) Nos.19872 of 2015 etc., batch

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12. Meantime, Mrs.P.Jeya, D/o Mr.A.S.Ponnaiah Konar, the petitioner in **W.P.(MD) No.19872 of 2015** has also purchased the entire extent of land from one Mohanram, who himself is said to have bought the said land from the legal heir of late B.N.Subburamier who is said to have died intestate in the year **1965** vide Sale Deed dated **27.04.2006** vide **Registered Document No.666/2006** before the Sub Registrar Office, Parasalai, Kerala by including the said land in Tamil Nadu as part of the Schedule to the aforesaid Sale Deed.

13. If the petitioner Mrs.Jeya in **W.P.(MD) No.19872 of 2015** succeeds, the rights of her father Late Mr.A.S.Ponnaiah Konar as cultivating tenant under the provisions of the Tamil Nadu Cultivating Tenants Protection Act,1955 [Act 25 of 1955] and subsequently as the owner of the land pursuant to registered **Sale Deed** dated **27.04.2006** executed by Mohanram will stand protected, **W.P.(MD)Nos.22149 and 22150 of 2018** filed by the petitioners namely Mrs.Dhanam and Mrs.Gandhi are liable to be dismissed.

14. Similarly, if the petitioner in **W.P.(MD) No.19879 of 2015** namely, Mrs.Vasanth, Wife of late Pon.Solaimalai, who is the sister-in-law of Mrs.Jeya the petitioner in **W.P.(MD) No.19872 of 2015** who claims rights through her



W.P.(MD) Nos.19872 of 2015 etc., batch

husband late Pon.Solamalai and through her father-in-law namely late Mr.A.S.Ponnaiah Konar as the cultivating tenant, succeeds **W.P.(MD) Nos. 22149 and 22150 of 2018** filed by the petitioners namely Mrs.Dhanam and Mrs.Gandhi are liable to be dismissed.

15. The petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018** namely Mrs.Dhanam and Mrs.Gandhi are the subsequent assignees of the subject land on **14.06.2002** which was/were earlier assigned to Mr.Karuppusamy and Mrs.P.S.Kamala.

16. The petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018** are said to be none other than the sisters of one Mr.L.Karuppiah who was an officer attached to the Revenue Department. It appears that the said Karuppiah's wife namely, Mrs.Indirani had attempted to disturb the possession from the late Mr.Pon.Solaimalai, son of Late Mr.A.S.Ponnaiah Konar/husband of Mrs.Vasanth, the Petitioner in **W.P.(MD) No.19879 of 2015**/ the brother of Mrs.Jeya the Writ Petitioner in **W.P.(MD) No.19872 of 2015**.

17. It appears, **O.S.No.331 of 1993** was also filed before the District Munsif Court, Melur by late Mr.Pon.Solaimalai, the husband of Mrs.Vasanth,



W.P.(MD) Nos.19872 of 2015 etc., batch

the petitioner in **W.P.(MD) No.19879 of 2015**/brother of Mrs.Jeya, the petitioner in **W.P.(MD) No.19872 of 2015** against one Mrs.Indirani for a permanent injunction.

18. The said Mrs.Indirani is said to be the sister-in-law of the petitioners in **W.P.(MD) No.22149 of 2018 & W.P.(MD) No.22150 of 2018** namely Mrs.Dhanam and Mrs.Gandhi. The said Mrs.Indirani had taken a categorical stand that the land that was earlier assigned to **Mr.Karuppasamy** and **Mrs.P.S.Kamala** on **16.03.1985** who had executed two registered Power of Attorneys dated **06.04.1992 & 11.03.1992** respectively and thereby appointed the said Mrs.Indirani as their Power of Attorney-Holder.

19. In the Written Statement filed before the District Munsif Court, Melur in **O.S.No.331 of 1993**, the defendant namely the said Mrs.Indirani has stated as follows:-

“4. The allegation in the plaint that the plaintiff has filed a petition to the Government to cancel the assignment orders passed in favour of the said B.A.Kuppusamy and A.S.Kamala and the Government has also cancelled the assignment orders in the year 1988 are absolutely false. It is submitted that the plaintiff has not filed any such petition and no notice was served upon the said Kuppusamy and Kamala. No enquiry was conducted by the Government



W.P.(MD) Nos.19872 of 2015 etc., batch

and no such cancellation order was passed by the Government. This defendant submits that even if there is any such order, the same is void illegal and not binding on Kuppusamy and Kamala and this defendant. It is to be noted that the plaintiff has not produced the alleged cancellation order along with the plaint.”

Submissions of Petitioners in W.P.(MD) No.19872 of 2015 and W.P.(MD) No.19879 of 2015

20. The learned counsel for the petitioners in **W.P.(MD) No.19872 of 2015** and **W.P.(MD) No.19879 of 2015** namely, Mrs.Jeya and Mrs.Vasanthan would submit that the land in question had already been transferred to one Mr.T.V.Alagarsamy on **11.04.1962**, before the Principal Act was notified and therefore, the sale of land by Mrs.Pichaiammal to Mr.T.V.Alagarsamy on **11.04.1962** is out of the bounds of the provisions of the Principal Act.

21. The learned counsel for the petitioners in **W.P.(MD) No.19872 of 2015** and **W.P.(MD) No.19879 of 2015**, Mrs.Jeya and Mrs.Vasanthan would further submit that Section 22 of the Principal Act would neither further the case of the Government which is defending the Impugned Order nor the petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018** namely, Mrs.Dhanam and Mrs.Gandhi.



W.P.(MD) Nos.19872 of 2015 etc., batch

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22. He would further submit that amendment to the Principal Act vide Sections 3(1) and 3(2) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Amendment Act, 1971 [Tamil Nadu Act No.41/1971] as also the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Fourth Amendment Act, 1972 [Tamil Nadu Act No.39/1972] and Section 3(2) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Fifth Amendment Act, 1972 [Tamil Nadu Act No.10/1974] will not come to rescue of the two other petitioners namely, Mrs.Dhanam and Mrs.Gandhi, the petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018** and/or the Government, as the land had already been transferred prior to commencement of the Act as amended by Sections 3-A, 3-B, 3-C, 3-D & 3-E of the Act. Specifically, a reference was made to Section 3-E of the Act which reads as under:-

“3-E. Notwithstanding anything contained in this Act, if, by virtue of the operation of section 3 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Fifth Amendment Act, 1972, the total extent held by any person exceeds the ceiling area, then, in relation to such person and in this Act, unless the context otherwise requires,

(i) “date of the commencement of this Act” means

(a) for the period before the 15th day of February 1970, the 6th day of April 1960;

(b) for the period commencing on the 15th day of February 1970, the 15th day of February 1970;



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W.P.(MD) Nos.19872 of 2015 etc., batch

(ii) “notified date” means the date specified by the Government, in a notification, which shall be a date subsequent to the date of the publication of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Fifth Amendment Act, 1972, in the Tamil Nadu Government Gazette.”

23. The learned counsel for the petitioners in **W.P.(MD) Nos.19872 & 19879 of 2015** namely Mrs.Jeya and Mrs.Vasanthan would further submit that though the Principal Act came into operation on **6th April 1960**, by virtue of Section 3-E, which was amended in the year 1974, it is illogical and illegal to cover a Sale Deed that was executed on **11.04.1962**, since the Presidential assent to the Principal Act was received only on **13.04.1962** and thus prior transfers before the commencement of the said Act, will not come under the purview of the Act. Further, the land in dispute could not be calculated as surplus along with other properties of Mrs.Pichaiammal. Hence, the said Act was not at all applicable to the lands in the present case in hand.

24. He would further submit that the applicability of Section 22 of the Act regarding *bona fide* transfers etc., will come into play only after the amendment of Section 3-E, in the year 1974, with retrospective effect. Even though the Amendment Act speaks about retrospective application to earlier



W.P.(MD) Nos.19872 of 2015 etc., batch

transactions, the land in **Survey No.312/3** could not be included under Section 22, only because the sale to T.V.Alagarsamy was prior to the assent by the President of the Act. Hence, both the sale transaction of T.V.Alagarsamy dated **11.04.1962** and the ownership of property in **Survey No.312/3** was out of the purview of the Principal Act.

25. The learned counsel for the petitioners in **W.P.(MD) Nos.19872 & 19879 of 2015**, namely Mrs.Jeya and Mrs.Vasantha, would further submit that it is settled proposition of law that different rights over a property can co-exist. It is the case of the petitioners that their Predecessor namely one **Mr.A.S.Ponnaiah Konar** obtained Cultivating Tenancy right from the family members of Mr.B.N.Subburamier (Purchaser from Mr.T.V.Alagarsamy in the year 1966) and the legal heirs of Mr.A.S.Ponnaiah Konar were in possession of the property. The learned counsel relied on the Compromise Decree between heirs of Mr.B.N.Subburamier and Mr.A.S.Ponnaiah Konar dated **19.09.1975** in T.C.T.P.No.251 of 1975 and the Tenancy Register to substantiate their claim.

26. It is submitted that as per Section 61 of the Tamil Nadu Cultivating Tenants Protection Act, 1955, every Cultivating Tenant who held land on the



W.P.(MD) Nos.19872 of 2015 etc., batch

notified date in excess of ceiling area shall intimate the excess land to the Authorized Officer and as per Rule 23 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1962, a Cultivating Tenant shall not exceed possession of land in excess of 5 Standard Acres. However, in the present case **Mr.A.S.Ponnaiah Konar** was in possession of 1.69 Acres only. Since, he has not exceeded the ceiling limit, it was not necessary for **Mr.A.S.Ponnaiah Konar** to intimate the Authorized Officer.

27. It is submitted that as per Rule 5 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1965, Cultivating Tenants are entitled to get assignment owing to prior possession. The Authorized Officer knew that **Mr.A.S.Ponnaiah Konar** was in possession of the property as found in the typeset filed by the Government. Hence, their possession should be recognized and assignment also should be given in favour of Cultivating Tenant even if the contentions of the Respondent Government are taken to be true and tenable.

28. It is submitted that the Government has admitted **Mr.A.S.Ponnaiah Konar** as tenant and Mr.T.V.Alagarsamy as purchaser in the typed set of documents filed. Hence, the possession and title of land in **Survey No.312/3** having an extent of 1.69 Acres was well known to the authorities concerned but



W.P.(MD) Nos.19872 of 2015 etc., batch

they failed to give notice or any manner of intimation as mandated by law.

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29. He would further submit that as per Section 2 (aa) (i) (ii) (a) & (b) of the Tamil Nadu Cultivating Tenants Protection Act, 1955, the Cultivating Tenancy right will pass to heirs and the heirs are to be considered as Cultivating Tenants. The learned counsel relied on Rule 23 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1962, which enables a Cultivating Tenant to hold the possession of land. However, opportunity was denied to the petitioners due to non-issuance of notice to the interested persons.

30. The learned counsel for petitioner in **W.P.(MD) No.19872 of 2015**, namely Mrs.Jeya, would further submit that the petitioner possessed title of property apart from tenancy right vide **Sale Deed dated 27.04.2006**, registered at Parasala, Kerala. Hence, the petitioner namely, Mrs.Jeya stakes a claim to the said subject property both as a Title holder as well as a Cultivating Tenant.

31. The learned counsel for the petitioners in **W.P.(MD) Nos.19872 & 19879 of 2015**, namely Mrs.Jeya and Mrs.Vasanth, would further submit that though Section 8 of the Act applies to Mrs.Pichaiammal since she was not the title holder of the subject property on the date of the proceedings, Section 8



W.P.(MD) Nos.19872 of 2015 etc., batch

should be read along with Section 9 of the Act, which obligates the Authorized Officer to issue notice to the stake holders if he did not receive appropriate details and the word “may” has to be read as “shall”.

32. He further submitted that sub-clause 5 to Section 10 of the Principal Act categorically stipulates that while issuing a “Draft Statement”, a notice should be issued to all stake holders including the tenants. Similarly, while issuing a “Final Statement” under Section 12 of the Principal Act, copies have to be served on all interested persons including tenants. However, no notice was issued to the Cultivating Tenant, **Mr.A.S.Ponnaiah Konar** or erstwhile owner of the property.

33. It is further submitted that the mandatory provisions for verification of information and enquiry under Rules 10 and 11 respectively of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1962 have not been complied with by the respondent Government Officials with respect to land in **Survey No.312/3** of Kannanendal Village having an extent of 1.69 Acres. The notice given to Mrs.Pichaiammal or the statement of her manager Sivananda Perumal or the selection of properties by Mrs.Pichaiammal to retain herself were not known to the Petitioner.



W.P.(MD) Nos.19872 of 2015 etc., batch

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34. All the mandatory proceedings were waived off in order to take away the property of the petitioners without hearing their grievances in contravention of the Judgment of this Court in “**Tirumathi Manoranjitham Vs. The Authorised Officer (Land Reforms), Nagapattinam East, Thanjavur District and another**”, 1984 (2) MLJ 474, wherein, it was held that non-compliance of mandatory provisions will nullify all the further proceedings under the Act 58/1961. Hence, the ceiling of 1.69 Acres is not legally sustainable.

35. The learned counsel for the petitioners in **W.P.(MD) Nos.19872 & 19879 of 2015**, submitted that a suit for injunction was decreed in their **O.S.No. 331 of 1993** against one Mrs.Indrani, sister-in-law of the subsequent assignees Mrs.Dhanam & Mrs.Gandhi the petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018**. This proves that as far as the subject property is concerned the petitioners in **W.P.(MD) Nos.19872 & 19879 of 2015** namely Mrs.Jeya and Mrs.Vasanth were in complete possession and no contrary evidence has been relied on by the respondents. The case of the State is that they notified Surplus lands only on 09.01.1985, but there is no whisper from the respondent side



W.P.(MD) Nos.19872 of 2015 etc., batch

about the aspect of possession on the date of Notification.

Submissions of Petitioners in W.P.(MD) Nos.22149 & 22150 of 2018:

36. On the other hand, the learned Senior Counsel for the petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018** namely, Mrs.Dhanam and Mrs.Gandhi would submit that the Impugned Order is unsustainable as the assignment that was made in favour of these petitioners on **14.06.2002** was after the cancellation of the assignments dated **16.03.1985** made in favour of Mr.Karuppasamy and Mrs.P.S.Kamala on **17.02.1993**. It is submitted that the Cancellation Order dated **17.02.1993** has not been challenged by the said Mr.Karuppasamy and Mrs.P.S.Kamala.

37. It is submitted that the assignment was made by the then Assistant Commissioner (Land Reforms) after enquiry and after payment of sufficient land value in favour of the respective petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018** namely, Mrs.Dhanam and Mrs.Gandhi as detailed below:-

Sl. No.	W.P.(MD) No.	Name	S.No.	Extent	Classification of land
1	22149/2018	Mrs.Dhanam	312/3	0.85 Acres	Wet
2	22150/2018	Mrs.Gandhi	312/3	0.85 Acres	Wet



W.P.(MD) Nos.19872 of 2015 etc., batch

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38. It is submitted that late Mr.Pon.Solaimalai, the brother and husband of the contesting respondents i.e., the petitioners in **W.P.(MD) Nos.19872 & 19879 of 2015**, namely, Mrs.Jeya and Mrs.Vasantham respectively had also applied for assignment of same land on **27.03.2002** in Form C. The application was however rejected as Mr.Pon.Solaimalai did not appear for enquiry under Rule 8(3) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965.

39. It is submitted that after the Assignment Order was passed on **14.06.2002**, in favour of Mrs.Dhanam and Mrs.Gandhi, the Petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018**, the Deed of Assignment in Form No.F was made in favour of Mrs.Dhanam and Mrs.Gandhi, as per Rule 8(6) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, on **29.06.2002** and that the fourth respondent namely, Tahsildar had also issued **Patta No.1323** in the name of Mrs.Dhanam, the petitioner in **W.P.(MD) No.22149 of 2018** and **Patta No.1327** in the name of Mrs.Gandhi, the petitioner in **W.P.(MD) No. 22150 of 2018**, on **31.03.2003**.



W.P.(MD) Nos.19872 of 2015 etc., batch

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40. It is submitted that late Mr.Pon.Solaimalai, the brother of the petitioner in **W.P.(MD) No.19872 of 2015**/husband of the petitioner in **W.P.(MD) No.19879 of 2015** whose application was rejected by the Assistant Commissioner (Land Reforms) under Rule 8(3) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965, had preferred an appeal in **APDSL No.16/2002** before the District Revenue Officer, Land Tribunal, Land Reforms, Chennai against the Order of Assignment dated **14.06.2002**. The District Revenue Officer, Land Tribunal, Land Reforms, Chennai allowed the appeal of late Mr.Pon Solamalai on **22.04.2004**.

41. It is submitted that without providing any opportunity to the petitioners, namely, Mrs.Dhanam and Mrs.Gandhi in **W.P.(MD) Nos.22149 & 22150 of 2018**, the Land Tribunal by an Order dated **22.04.2004**, ordered cancellation of Assignment Order dated **14.06.2002** of the Assistant Commissioner (Land Reforms) and thus, directed the Government to identify the surplus land once again for disposal of the same, virtually nullifying the proceedings that were concluded before 30 years, holding that the lands were Surplus in the hands of Original owner, namely Mrs.Pichaiammal.



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W.P.(MD) Nos.19872 of 2015 etc., batch

42. It is submitted that meanwhile, the Assistant Commissioner (Land Reforms) after conducting enquiry afresh and passed **Order** on **11.04.2007** and held that Mrs.Pichaiammal namely, the vendor of the Mr.T.V.Alagarsamy was the owner of the land in **Survey No.312/3** as on **02.10.1962** and that the sale made to Mr.T.V.Alagarsamy through **Document No.2739 of 1962** was declared as void as it was hit by Section 22 of the Principal Act and therefore, the declaration of land as surplus is valid.

43. It is submitted that the petitioner in **W.P.(MD) No.22149 of 2018**, Mrs.Dhanam, since deceased, had filed **W.P.(MD) No.480 of 2006** to direct the Land Tribunal to furnish the certified copy of the Order dated **22.04.2004** passed in the appeal filed by the said late Mr.Pon.Solaimalai. The said Writ Petition came to be allowed.

44. It is submitted that the petitioner in **W.P.(MD) No.22149 of 2018** Mrs.Dhanam, since deceased, had also filed **W.P.(MD) No.7351 of 2007** challenging the Order of the Land Tribunal dated **22.04.2004** and consequential



W.P.(MD) Nos.19872 of 2015 etc., batch

Order dated **24.06.2004** passed by the Assistant Commissioner (Land Reforms).

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45. It is submitted that by an Order dated **26.09.2011**, this Court had set aside the Order of the Land Tribunal dated **22.04.2004** and consequential Order dated **24.06.2004** passed by the Assistant Commissioner (Land Reforms) and remanded back the case to the Land Tribunal for re-consideration of the issue on merits and in accordance with law.

46. It is submitted that the petitioner in **W.P.(MD) No.22150 of 2018**, Mrs.Gandhi, also filed **W.P.(MD) No.7100 of 2007** and challenged the Order of the Land Tribunal dated **22.04.2004** and consequential **Order** dated **24.06.2004** passed by the Assistant Commissioner (Land Reforms).

47. It is submitted that by an Order dated **24.08.2010** in **W.P.(MD) No. 7100 of 2007**, this Court set aside the order of the Land Tribunal dated **22.04.2004** and remanded back the case back to the Land Tribunal to issue notice to the petitioner, namely Mrs.Gandhi in **W.P.(MD) No.22150 of 2018** and the said Mr.Pon.Solaimalai and decide the appeal on merits and in accordance with law.



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48. It is submitted that pursuant to the Orders of this Court, the Principal Secretary/Commissioner of Land Reforms, Chennai conducted an enquiry and passed **Order** dated **24.04.2012** in the Revision Petition filed by both the petitioners and the private respondents confirming the Assignment dated **14.06.2002** in favour of the petitioners in **W.P.(MD) Nos.22149 & 22150 of 2018** namely Mrs.Dhanam & Mrs.Gandhi, with the following observations:-

- i. Ponnammal originally held the lands and subsequently after her demise Smt.Pitchalammal inherited the properties of Ponnammal and as such on the notified date, i.e. 02.10.1962, her holdings were exceeded the Ceiling limit.
- ii. In response to the contention that the 'A' register still holds the name of Smt. Ponnammal, it was held that the updation is done only once in 10 years.
- iii. Therefore, action was Initiated against the holdings of Tmt. Pitchaiaimai and the Land Ceiling Proceedings were concluded by way of publication of notification under section 18(1) of the Act dated 09.01.1985.
- iv. Therefore, the contention that the land in question i.e. Sy.No.312/3 cannot be declared as surplus from the holdings of Tmt. Pitchaialmmal is baseless and devoid of merit.
- v. The contention that the land is sold to Thiru T.V. Azhagarsamy during 1962 cannot be declared as surplus is devoid of merit, as any transaction that took place between the date of commencement of the Act and the notified date was hit by section 22 of the Act and therefore, the transaction was declared as void under section 22 of the Act has no force and deserves no consideration.



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W.P.(MD) Nos.19872 of 2015 etc., batch

- vi. Respondents (Jeya & Pon.Solamalai) has not applied for assignment in Form C while inviting applications for assignment in Form B on 28.01.1985. A person who did not apply for assignment of land cannot claim such grievances.
- vii. Pon.Solamalai's name does not figure as a tenant anywhere for the survey number as such the name of the said Pon.Solaimalai was not considered for assignment of surplus land in S.No.312/3 and orders of assignment were issued on 16.03.1985.
- viii. The Enquiry Report of the Special Revenue Inspector Madurai, dated 22.05.2002 and the Report of Special Deputy Madurai dated: 07.06.2002 reveal that the petitioners, Dhanam and Gandhi were enjoying the land for the past 10 years and the Pon. Solamalai was not in position of the land since 1995 to 2002 and before that he was in possession of the land for some years and that he was not residing in the village for the past 10 years and Dhanam and Gandhi were enjoying the land since 1994 and for which they are produced the extracts of adangal.
- ix. Pon. Solamalai did not participate in the statutory enquiry conducted by the Special Deputy Tahsildar, Madurai under Rule 8(3) of the Rules.
- x. While giving deposition before the Deputy Tahsildar, Madurai on 16.12.1999, Pon Solammalai deposed that upto 1996, he was cultivating the land in question and that after 1996, due to law and order problem in the election, he shifted is residence to Melur. Perusal of the order of this Court in W.P.(MD) No.12975 of 1997 and 33780 of 2002 dated 22.08.2002 reveals that Pon Solamalai filed two Writ Petitions one seeking police protection to enter into the village because of the alleged community unrest and the other one contending that he continues to be the cultivating tanent of the land in question and therefore seeking for a direction to hold enquiry relating to the assignment of land, the high court in its order dismissed both the Writ Petitions holding that the averments made in both the Writ



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W.P.(MD) Nos.19872 of 2015 etc., batch

Petitions are self contradictory.

- xi. The purchaser Pon Solamalai having purchased the land in the year 2006 after the lapse of 21 years from the date of vestiture of land in Government cannot question the declaration of surplus from the Holdings of the land owner. When the land owner herself as agreed for the declaration of surplus from her holdings the Purchase has no local standard to ask for delicious of the lands from the surplus list.
- xii. Tenancy rights claimed by Pon Solamalai is not supported by any documentary evidence. Pon Solamalai's name has not been reflected in the notification either as a 'interested party' or as a Tenant. Compromise Deed in TCTP No.251/74 dated 18.02.1976 does not disclose the survey numbers in support of the tenancy rights.

49. It is submitted that aggrieved by the above Order, the petitioner in **W.P.(MD) No.19872 of 2015**, namely, Mrs.Jeya and the said Mr.Pon.Solaimalai, husband of the petitioner, namely Mrs.Vasanth in **W.P. (MD) No.19879 of 2015** had filed a Writ Petition in **W.P.(MD) No.7152 of 2012**. **W.P.(MD) No.7152 of 2012** came to be disposed of on **08.10.2014** with the following observations:-

“24. The learned counsel for the petitioner raised objections with regard to title of Pitchammal to the land in question. As per Section 11 of the Act, the objection has to be decided. Section 11 reads as follows:

“11.Authorised officer to decide question of title in certain cases – (1) If while considering the



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W.P.(MD) Nos.19872 of 2015 etc., batch

objections received under sub-section (5) of Section 10 or otherwise, the authorised officer finds that any question has arisen regarding the title of a person to any land and such question has not already been finally determined by, or is not pending before, a competent Court, the Land Tribunal or other authority, the authorised officer may, subject to the provisions of sub-section (2), decide such question summarily in such manner as may be prescribed and may pass such order as he deems fit. (2) Where in the opinion of the authorised officer the decision of a question under sub-section (1) involves a substantial question of law or of fact, he shall, for reasons to be recorded in writing refer the question to the Land Tribunal. (3) The order of the authorised officer under sub-section (1) shall not be subject to any appeal or revision, but any party may, within three months from the date of service of a copy of such order, institute a suit in the Land Tribunal within whose jurisdiction the land or the major part thereof is situated to have the order set aside or modified but subject to the final result of such suit, if any, the order of the authorised officer shall be final.”

25. As per Section 11(2) of the Act, when substantial questions of law or facts are involved in respect of the objections raised, the second respondent has to record the reasons in writing and refer the matter to the land Tribunal. The learned counsel for the petitioner raised objections as contemplated under Section 11(1) of the Act, which involves substantial questions of law and fact. Therefore, when deciding the various submissions made by the learned counsel for the petitioner and the learned counsel for the respondents on merits, the impugned order of the first respondent dated 24.04.2012 is set aside and the matter is remanded to the second respondent for fresh consideration and decide the same on merits.”



W.P.(MD) Nos.19872 of 2015 etc., batch

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50. It is submitted that subsequently, the Impugned Order dated **23.07.2015** was passed by the Authorized Officer (Land Reforms)-cum-Revenue Divisional Officer, Madurai who is the third respondent in **W.P.(MD) Nos.19879 & 19872 of 2015**/second respondent in **W.P.(MD) Nos.22149 & 22150 of 2018**, declining the rights of the respective petitioners.

Submissions of Respondent-Government:

51. Defending the Impugned Order dated **23.07.2015** passed by the Authorized Officer (Land Reforms)-cum-Revenue Divisional Officer, the Special Government Pleader for the Respondent-Government would submit that the writ petition is not maintainable either in law or on facts and liable to be dismissed as devoid of merits.

52. It is submitted that Mrs.Rani Ponnammal was an Agricultural Income Tax Assessee and she held lands in excess of the ceiling area on **06.04.1960** but died on **28.09.1961** and before her death she executed a "Will" on **29.03.1961** by which she gave all her properties to Mrs.Pichaiammal.

53. It is submitted that after the death of Mrs.Rani Ponnammal and



W.P.(MD) Nos.19872 of 2015 etc., batch

before the notified date i.e., **02.10.1962** her holdings exceeded the ceiling limit and therefore action was initiated against the holdings of Mrs.Pichaiammal and that the land ceiling proceedings were concluded by way of notification under Section 18(1) of the Principal Act dated **09.01.1985**. Therefore, the declaration of surplus from the holdings of the land owner Mrs.Pichaiammal is in consonance with the provisions of the Principal Act.

54. It is further submitted that when the land owner Mrs.Pichaimmal herself has agreed for the declaration of surplus from her holdings and therefore, the petitioners have no *locus standi* to ask for deletion of lands from the surplus list. The contentions of the petitioners are false and vexatious and therefore, it may be rejected summarily.

55. The Special Government Pleader would further submit that the purported sale in favour of one T.V.Alagarsamy on **28.04.1962** is hit by Section 22 of the Act, 1961. Further, it is submitted that as per Section 22 of the Act, the said land in question was already included in the list of surplus lands held by Mrs.Rani Ponnammal and no one has challenged the said inclusion in the notification of surplus lands and as such it has become final.



W.P.(MD) Nos.19872 of 2015 etc., batch

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56. Further, it is submitted that as per Section 22 of the Tamil Nadu Land Reforms Act, 1961, transactions that took place after the “**commencement of the Act**” and “**notified date**” are null and void and therefore the sale in favour of Mr.T.V.Alagarsamy by Mrs.Pichaimmal in **Doc.No.2739 of 1962** dated **28.04.1962** was rightly declared as void under Section 22 of Act. As such, the averments of the petitioners in **W.P.(MD) No.19872 of 2015** and **W.P.(MD) No.19879 of 2015** (namely Mrs.P.Jeya and Mrs.Vasantha respectively) stating that there was a further sale of land to Mr.B.N.Subburamier in the year 1965 are also void in law.

57. It is submitted that the averments of the petitioners in **W.P.(MD) No. 19872 of 2015** and **W.P.(MD) No.19879 of 2015** (namely Mrs.P.Jeya and Mrs.Vasantha respectively) stating that **Mr.A.S.Ponnaiah Konar** was the cultivating tenant of the land in question and there was a compromise between the subsequent purchaser Mr.B.N.Subburamier regarding the cultivating tenancy rights with him are denied as utter false and misleading, as the surplus lands in question have vested with the Government free from all encumbrances and the lands have been assigned to the beneficiaries under the provision of



W.P.(MD) Nos.19872 of 2015 etc., batch

Land Reforms Act and the Rules.

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58. It is submitted that the petitioner in **W.P.(MD) No.19879 of 2015** (namely Mrs.Vasantha) or her deceased husband namely late Mr.Pon Solaimalai had not applied for assignment of the said surplus land in 1985 as they are not residing in the village from the year 1996 onwards and shifted to Melur, they had not taken any steps to get assignment in their favour and hence cannot claim such favour of land assignment.

59. It is submitted that the tenancy rights claimed by the petitioners in **W.P.(MD) No.19872 of 2015** and **W.P.(MD) No.19879 of 2015** (namely Mrs.P.Jeya and Mrs.Vasantha) were not supported by any documentary evidence. If any tenant was a cultivating the land, the name of the tenant would have been included as an “interested person” in all the proceedings, but no such inclusion was made either as an interested party or as a tenant.

60. It is therefore submitted that clearly reveals that the petitioner and her family members were not possession of the land and therefore the declaration of land in **Old Survey No.312/3, (New Survey No.62/3A and 62/3B)** to an extent of 1.69 acres in Kanannendal Village, Madurai North Taluk as surplus



W.P.(MD) Nos.19872 of 2015 etc., batch

land is valid in the eye of law.

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61. It is further submitted that the question of tenancy does not confer any right on the tenant and the tenant has to prove his rights by applying for assignment in Form C. In the case the petitioners in **W.P.(MD) No.19872 of 2015** and **W.P.(MD) No.19879 of 2015** (namely Mrs.P.Jeya and Mrs.Vasantha respectively) have not applied for assignment. It is submitted that late Mr. Pon Solamalai (the brother and husband of the these two petitioners, respectively) had applied for assignment. However, he did not participate in the enquiry and therefore the land was not assigned to him.

62. It is further submitted that the alleged purchase of the land by the Petitioner in **W.P.(MD) No.19872 of 2015**, namely Mrs.P.Jeya, on **27.04.2006**, took place in Parasala Registrar Office at Kerala State and was not valid in Tamil Nadu and the said sale/registration was made only for the purpose of creation of records and the same is hit by the provisions under Section 22 of the Principal Act and becomes null and void in law.

63. It is submitted that the writ petition filed by Mrs.Gandhi in **W.P. (MD). No.7100 of 2007** and in **W.P.(MD). No.7351 of 2007** filed by the



W.P.(MD) Nos.19872 of 2015 etc., batch

assignee late Mrs.Dhanam were allowed on **24.08.2010** and **26.09.2011** respectively with a direction to the Land Commissioner, Chennai to reconsider the matter in accordance with law.

64. Accordingly, the revision petition filed by the assignees late Mrs.Dhanam and Mrs.Gandhi were allowed against which the petitioners herein have filed **W.P.(MD) No.7152 of 2012** before this Hon'ble Court and vide its Order dated **01.08.2020**, the same was ordered to be remitted back to the third respondent for fresh consideration.

65. It is submitted that as per directions of this Hon'ble Court, the third respondent in **W.P.(MD) No.19872 of 2015** and **W.P.(MD) No.19879 of 2015** (The Petitioners namely Mrs.P.Jeya and Mrs.Vasantham respectively) / second respondent in **W.P.(MD) No.22149 of 2018** and **W.P.(MD) No.22150 of 2018** (The Petitioners namely Mrs.Dhanam and Mrs.Gandhi respectively) conducted detailed enquiry and passed the Impugned Order dated **23.07.2015** against which, this writ petition is filed.

66. It is submitted that the impugned land in **Old Survey No.312/3, New**



W.P.(MD) Nos.19872 of 2015 etc., batch

Survey No.62/3 A and 3B is classified as 'Surplus land' in the Government records and it is vested with the Government for its future usage for a *bona fide* public purpose.

67. It is submitted that the said surplus lands were earlier assigned to one Mr.P.A.Karuppasamy and Mr.P.S.Kamala on **16.03.1986** under the Tamil Nadu Land Reforms Rules, 1965 and subsequently cancelled for violation of assignment conditions on **17.02.1993**. Thereafter, the said lands were re-assigned to Mrs.Dhanam and Mrs.Gandhi by an Assignment Order **14.06.2002** which was also cancelled subsequently for violation of assignment conditions.

68. It is submitted that the physical features of the said cultivable land has totally changed and now it remains as a valuable house site due to the non-cultivation for more than two decades and as such, no land assignment can be granted to anyone. The land is vested with the Government and remains as a surplus land in the records. Thus, the contentions of the petitioners do not deserve any merit and it may be rejected summarily.

69. It is submitted that the Impugned Order dated **23.07.2015** was passed by the Authorized Officer (Land Reforms)-cum-Revenue Divisional Officer



W.P.(MD) Nos.19872 of 2015 etc., batch

after considering all these factual aspects and ground realities, which is well within the ambit of law. The averments of the petitioners are false, exaggerated and are repetitive in nature and therefore, it may be rejected summarily.

70. It is respectfully submitted that due to the *status-quo* Order dated **30.10.2015** granted by this Court in **W.M.P.(MD) No.2 of 2015** in **W.P. (MD).No.19879 of 2015**, further action in this matter could not be proceeded with by the authorities. It is, therefore, prayed that the said *status-quo* Order granted by this Court on **30.10.2015** may kindly be vacated in the larger interest of public and also in the interest of administration and thus render justice.

71. I have considered the submissions of the learned counsel for the petitioners in **W.P.(M.D) Nos.19872 & 19879 of 2015**, learned Senior Counsel for the petitioners in **W.P.(M.D) Nos.22149 & 22150 of 2018**, and the learned Additional Advocate General for the official respondents in these Writ Petitions.

72. I have also considered the records that have been produced before this Court and the case laws filed in support of the respective writ petitioners who are private respondents in each other's writ petitions and the case laws



W.P.(MD) Nos.19872 of 2015 etc., batch

submitted on behalf of the official respondents. I have also examined the provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 and successive amendments made thereunder.

73. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (hereinafter referred to as the “**Principal Act**”) is a State Legislation. It was passed by the State Legislature in the the year 1961. The Principal Act has been included in the Nineth Schedule of the Constitution of India.

74. Date of Commencement of an enactment would depend on few factors. When the date of its commencement is not specified, the law treats them differently under Section 5 of the General Clauses Act, 1897 and under Section 5 of the Tamil Nadu General Clauses Act, 1891. The Principal Act being a State enactment is governed by Section 5 of the Tamil Nadu General Clauses Act, 1891.

75. For Comparison and for clarity, both the provisions of reproduced below:-



W.P.(MD) Nos.19872 of 2015 etc., batch

WEB COPY

General Clauses Act, 1897	Tamil Nadu General Clauses Act, 1891
5. Coming into operation of enactments.- [(1) Where any Central Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which it receives the assent,- (a) in the case of a Central Act made before the commencement of the Constitution, of the Governor General, and (b) in the case of an Act of Parliament, of the President.] * * * * * (3) Unless the contrary is expressed, a [Central Act] or Regulation shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.	5. Commencement of future Acts. [(1) Where any Act to which this Chapter applies is not expressed to come into operation, on a particular day, then, it shall come into operation, on the day on which the assent thereto of the Governor, the Governor General or the President, as the case may require, is first published in the Official Gazette.] (2) In every such Act, the date of such publication as aforesaid shall be printed either above or below the title of the Act and shall form part of the Act.

76. The Principal Act received the assent of the President on **13.04.1962** in terms of **Article 200** of the Constitution of India. If the Principal Act was a Central Enactment, it would have come into force on **13.04.1962**, i.e., on the date when the President gave the assent in terms of Section 5 of the General Clauses Act, 1897.



W.P.(MD) Nos.19872 of 2015 etc., batch

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77. Since the Principal Act is a State Enactment, as per Section 5 of the Tamil Nadu General Clauses Act, 1891, it would have come into force on the date of its Notification in the Official Gazette on **02.05.1962**. However, it would date back to the date of publication of the bill in the Gazette.

78. As per Section 3(11) of the Principal Act, the "date of the commencement of this Act" means the date on which the Madras Land Reforms (Fixation of Ceiling on Land) Bill, 1960 was published in the Fort St. George Gazette, namely, the **6th day of April 1960**. The expression "**date of commencement**" as defined Section 3(11) of the Principal Act is extracted as hereunder:-

"3. Definitions.-

*(11) "date of the commencement of this Act" means the date on which the Madras Land Reforms (Fixation of Ceiling on Land) Bill, 1960 was published in the Fort St. George Gazette, namely, the **6th day of April 1960**;"*

79. Since Bill for the Principal Act published in the Fort St. George Gazette on **06.04.1960**, the date of its commencement of the Principal Act is **06.04.1960 with** retrospective effect.



W.P.(MD) Nos.19872 of 2015 etc., batch

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80. The Principal Act has seen a slew of amendments. It being an agrarian reform enactment, it was included in the Ninth Schedule to the Constitution. It was amended by way of the Tamil Nadu Land Reform (Reduction of Ceiling on Land) Act, 1970 (hereinafter referred to as the “**Amendment Act**”). This amendment modified the date of commencement of the Principal Act to **15.02.1970**.

Pre-Amendment Act	Post Amendment Act
Section 3. In this Act, unless the context otherwise requires,-	
(11) “ date of the commencement of this Act ” means the date on which the Madras Land Reforms (Fixation of Ceiling on Land) Bill, 1960 was published in the Fort St.George Gazette, namely, the 6th day of April 1960 ;	(11) “ date of the commencement of this Act ” means the 15th day of February 1970 ;
(31) “ notified date ” means the date specified in the notification issued by the Government under sub-section (1) of section 8;	(31) “ notified date ” means the date specified by the Government in a notification, which shall be a date after the date of the publication of this Act;

81. The arguments of the petitioner in **W.P.(MD) Nos.19872 & 19879 of 2015**, namely Mrs.Jeya and Mrs.Vasantha, that the first sale to Mr. T.V.Alagirisamy precedes the Presidential assent of the above enactment is incorrect in view of **section 3(11)** of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, as it then stood as the Principal Act came into



W.P.(MD) Nos.19872 of 2015 etc., batch

force retrospectively with effect from **06.04.1960** in view of Section 3(11) of the Principal Act, namely the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961.

82. The subsequent amendment to the Principal Act vide Tamil Nadu Land Reform (Reduction of Ceiling on Land) Act, 1970 is prospective as is evident from Section 2 of the said amendment Act. By this amendment, *inter alia*, the ceiling limits of land holdings were reduced to 15 Standard Acres from 30 Standard Acres in the Principal Act.

83. However, any proceedings taken under the Principal Act were saved by the Amendment Act. The proceedings taken under the Principal Act were continued as if the amendment had not taken place. Relevant provisions of Section 3 of the Amendment Act are extracted as hereunder:-

“Section 3. Saving:-

(1) Subject to the provisions of sub-section (2) any action taken (including any order made, notification issued, decision or direction given, proceeding taken, liability or penalty incurred and punishment awarded) under the provisions of the principal Act before the date of the publication of this Act in the Fort St. George Gazette, may be continued or enforced after the said date in accordance with the provisions of the principal Act as if this Act had not been passed.



W.P.(MD) Nos.19872 of 2015 etc., batch

(2) Nothing in sub-section (1) shall be deemed to entitle any person whether or not such person is a party to any proceeding mentioned in sub-section (1), to hold after the 15th day of February 1970, land in excess of the ceiling area under the principal Act as modified by section 2 and the provisions of the principal Act as modified by section 2 shall, after the said date, apply to such person.”

84. Section 5 of the Principal Act which prescribed the ceiling limits for each land holder was also modified by the Amendment Act. Relevant portion of Section 5 of the Principal Act before and after amendment, are extracted as under:-

Section 5 before Amendment Act	Section 5 after Amendment Act
5. Ceiling area. (1) (a) Subject to the provisions of Chapter VIII, the ceiling area in the case of every person and, subject to the provisions of sub-sections (4) and (5) and of Chapter VIII, the ceiling area in the case of every family consisting of not more than five members, shall be 30 standard acres. * * *	5. Ceiling area. (1) (a) Subject to the provisions of Chapter VIII, the ceiling area in the case of every person and, subject to the provisions of sub-sections (4) and (5) and of Chapter VIII, the ceiling area in the case of every family consisting of not more than five members, shall be 15 standard acres. * * *

85. Section 8(1) of the Principal Act which dealt with the obligations of the person holding land in excess of 30 Standard Acres before amendment was



W.P.(MD) Nos.19872 of 2015 etc., batch

later modified by the Amendment Act fixing the ceiling at 15 Standard Acres enjoined the owner to filed declaration by furnishing a return. Section 8(1) of the Principal Act and Section 8(1) as amended by the 4th Amendment Act are extracted as under:-

Section 8(1) of the Principal Act	Section 8(1) as amendment by the Amendment Act
Section 8. Furnishing of return by person holding land in excess of 30 standard acres.- (1) <u>Within ninety days from such date as may be specified in the notification</u> issued by the Government in this behalf, every person, who, on the date of the commencement of this Act, held or is deemed to have held, land in excess of 30 standard acres shall, in respect of all land held or deemed to have been held by such person on such date, furnish to the authorized officer within whose jurisdiction the holding of such person or the major part thereof is situated, a return containing the following particulars, namely:- * * * *	Section 8. Furnishing of return by person holding land in excess of 15 standard acres.- (1) <u>Within ninety days # from the notified date</u> , every person, who, on the date of the commencement of this Act, held or is deemed to have held, land 4 [in excess of the ceiling area] shall, in respect of all land held or deemed to have been held by such person on such date, furnish to the authorized officer within whose jurisdiction the holding of such person or the major part thereof is situated, a return containing the following particulars, namely:- * * * *

Note: # Ninety days was later reduced to thirty days vide 4th amendment to the Principal Act namely the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961.

The underlined portion of Section 8 in the above table were substituted by the Amendment Act.



W.P.(MD) Nos.19872 of 2015 etc., batch

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86. As far as the present case is concerned, the date of commencement of the Tamil Nadu Land Reforms (Fixation of Ceiling on Lands) Act, 1961 was **06.04.1960**. Since the sale was made on **11.4.1962** and registered on **28.4.1962**, the challenge to the impugned proceedings of the 2nd respondent/Assistant Commissioner of Land Reforms was without any basis as the first sale was void under Section 22 of the Principal Act.

87. Section 22 of the Principal Act prohibits any transfer or partition made on or after the date of commencement of the Principal Act and prior to the notified date. Section 22 of the Principal Act also saw few amendments since its inception. They read as under:-



W.P.(MD) Nos.19872 of 2015 etc., batch

Principal Act	Amendment by Tamil Nadu Land Reform (Reduction of Ceiling on Land) Act, 1970	6 th Amendment Act
Section 22. Transfer or partition made on or after the date of the commencement of this Act, but before the notified date.- Where, on or after date of the commencement of this Act, but before the notified date, any person has transferred any land held by him by sale, gift (other than gift made in contemplation of death), exchange, surrender, settlement or in any other manner whatsoever except by bequest *or has effected a partition of his holding or part thereof, the authorized officer within whose jurisdiction such land, holding or the major part thereof is situated may, after notice to such person and other persons affected by such transfer or partition and after such enquiry as he thinks fit to make, declare the transfer or partition to be void if he finds that the transfer or the partition, as the case may be, defeats any of the	Section 22. Transfer [omitted] made on or after the date of the commencement of this Act, but before the notified date.- Where, on or after the date of the commencement of this Act, but before the notified date, any person has transferred any land held by him by sale, gift (other than gift made in contemplation of death), exchange, surrender, settlement or in any other manner whatsoever except by bequest [omitted] the authorized officer within whose jurisdiction such land, holding or the major part thereof is situated may, after notice to such person and other persons affected by such transfer [omitted] and after such enquiry as he thinks fit to make, declare the transfer [omitted] to be void if he finds that the transfer [omitted] defeats any of the provisions of this Act.	Section 22. Transfer [or partition] made on or after the date of the commencement of this Act, but before the notified date.- Where, on or after the date of the commencement of this Act, but before the notified date, any person has transferred any land held by him by sale, gift (other than gift made in contemplation of death), exchange, surrender, settlement or in any other manner whatsoever except by bequest [or has effected a partition of his holding or part thereof], the authorized officer within whose jurisdiction such land, holding or the major part thereof is situated may, after notice to such person and other persons affected by such transfer [or partition] and after such enquiry as he thinks fit to make, [declare the transfer of partition to be void if he finds that the transfer or the partition, as the case may



W.P.(MD) Nos.19872 of 2015 etc., batch

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Note: * deleted by the Tamil Nadu Land Reform (Reduction of Ceiling on Land) Act, 1970.

88. It is also evident from the records filed before the Court and the provisions of the Principal Act, the “**notified date**” for the purpose of Section 8(1) of the Principal Act was **02.10.1962**. That apart, facts as narrated above indicate that clearly the sale by the said Mrs.Pichaiammal on **11.4.1962** in favour of Mr T.V.Alagarsamy (though made after the “**notified date**” but before the “**commencement of the act**”) was intended to defeat the purpose and the main object of the State Legislature under the Principal Act to distribute excess land to the poor. The sale which was eventually registered in favour of Mr T.V.Alagarsamy on **28.4.1962** was after the date of commencement of the Principal Act.

89. The prohibition of transfer under **Section 22** of the principal Act is undoubtedly applicable to the sale transaction between Mrs.Pichaiammal and Mr.T.V.Alagarsamy in the Sale Deed dated **11.04.1962** registered on **28.04.1962**. Transfer on or after the date of the commencement of the Principal Act and the notified date, was liable to be declared as 'void' by the Authorized Officer, if it was intended to defeat any of the provisions of the Principal Act.



W.P.(MD) Nos.19872 of 2015 etc., batch

There is no iota of doubt the transfer was intended to defeat any of the provisions of the Principal Act.

90. Likewise, Section 23 of the Principal Act enjoined an Authorized Officer not to take into consideration certain transfers or subdivisions before the publication of final statement but after the “notified date” i.e., as defined in Section 3(31) of the Principal Act i.e., the date specified in the notification issued by the Government under sub-section (1) to Section 8 of the Principal Act. Section 23 reads as under:-

“Section 23: Authorized officer not to take into consideration certain transfers or subdivisions before publication of final statement.-

Subject to the provisions of section 20, for the purpose of fixing, for the first time, the ceiling area of any person holding land on the date of the commencement of this Act, in excess of 30 standard acres, the authorized offices shall not take into consideration-

(a) any transfer, whether by sale (including sale in execution of a decree or order of a civil court or of an award or order of any other lawful authority) or by gift (other than gift made in contemplation of death), exchange, surrender, settlement or otherwise; or

(b) any subdivision (including subdivision by a decree or order of a civil court or any other lawful authority) whether by partition or otherwise,

effected on or after the notified date and before the date of the



W.P.(MD) Nos.19872 of 2015 etc., batch

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publication of the final statement under section 12 or 14.

91. Thus, the Authorized Person was not bound to take note of the sale between **06.04.1960** and the date specified in the notification issued by the Government under sub-section (1) to Section 8 of the Principal Act. Therefore, the Authorized Officer was not bound to take into consideration of the 1st sale between Mrs.Pichaiammal and Mr.T.V.Alagarsamy on **11.04.1962** which was registered on **28.04.1962**.

92. The facts of the present case disclose that the final statement under Section 12 of the Principal Act was published in the Tamil Nadu Government Gazette dated **18.07.1973**. The Notification under Section 18(1) of the Act was published in the Tamil Nadu Government Gazette dated **29.09.1973**. However, the above notification was subsequently cancelled and a revised notification under Section 18(1) of the Principal Act was published declaring the subject lands as surplus on **09.01.1985**.

93. Thus, the petitioner in **W.P.(MD) No.19872 of 2015** and **W.P.(MD) No.19879 of 2015** namely, Mrs.Jeya and Mrs.Vasantha who claim rights as



W.P.(MD) Nos.19872 of 2015 etc., batch

cultivating tenants through their father and father-in-law on account of the 1st sale, have no rights over the land.

94. In this context, it is also pertinent to note that lands declared as surplus under Section 18(1) of the Principal Act are deemed under Section 18(3) to have been acquired for a public purpose and vested in the Government free from all encumbrances with effect from the date of such publication and any right, title and interest of all persons in such land shall with effect from the said date, be deemed to have been extinguished. Section 18 of the Principal Act reads as under:-

“Section 18. Acquisition of surplus land.

(1) After the publication of the final statement under section 12 or 14, the Government shall, subject to the provisions of sections 16 and 17, publish a notification to the effect that the surplus land is required for a public purpose.

(2) As soon as may be after the publication of a notification under sub-section (1), the authorized officer shall-

(a) cause to be published in every village or town in which any part of the land specified in such notification is situated a proclamation containing the terms of the notification;

(b) cause a copy of the notification to be served on the persons concerned, the creditors, persons whose names appear in the final statement published under section 12 or 14 and such other persons as may be specified in the



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rules made by the Government.

(3) On the publication of the notification under sub-section (1), the land specified in the notification together with the trees standing on such land and buildings, machinery, plant or apparatus constructed, erected or freed on such for and used for agricultural purposes shall, subject to the provisions of this Act, be deemed to have been acquired for public purpose and vested in the Government free from all encumbrances with effect from the date of such publication and any right, title and interest of all persons in such land shall, with effect from the said date, be deemed to have been extinguished:

Provided that where there is any crop standing on such land on the date of such publication, the authorized officer may, subject to such conditions as may be prescribed, permit the harvest of such crop by the person who had raised such crop.

(4) Subject to the rules made under sub-section (5), the authorized officer may, at any time after the publication of the notification under sub-section (1), take possession of any land specified in the said notification

(5) The Government may make rules-

(a) specifying the classes of tenants, who may be allowed to continue in possession of the land;

(b) permitting any co-operative society registered or deemed to have been registered under the Madras Co-operative Societies Act, 1932 (Madras Act VI of 1932) or under the Travancore-Cochin Co-operative Societies Act, 1951 (Travancore-Cochin Act X of 1952) or any land mortgage bank to which the Madras Co-operative Land Mortgage Banks Act, 1934 (Madras Act X of 1934) applies or any agricultural company to continue in possession of the land notwithstanding anything contained in sections 5 and 7,

even after the publication of the notification under sub-section (1). Such rules may also provide for the conditions subject to which the persons referred to in clauses (a) and (b) may continue in possession of the land.”



W.P.(MD) Nos.19872 of 2015 etc., batch

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95. The subject lands were initially assigned under the provisions of the **Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965** to Mr.P.A.Karuppasamy and Mr.P.S.Kamala on **16.03.1985**, but cancelled on **17.02.1993** on the ground that the assignees were not engaged in direct cultivation of land.

96. Thereafter, the subject lands were assigned to late Mrs.Dhanam and Mrs.Gandhi, the petitioners in **W.P.(MD) No.22149 of 2018** and **W.P.(MD) No.22150 of 2018** on **14.06.2002** in proceedings bearing reference in M.R.IV.No.225 [13] MDU/B3.

97. Late Mr.Pon Solamalai, the husband of Mrs.Vasantha [the petitioner in **W.P.(MD) No.19879 of 2015**] and the brother of P.Jaya, [the petitioner in **W.P.(MD) No.19872 of 2015**] initiated proceedings to cancel the aforesaid assignment made by the Assistant Commissioner land reforms before the Land Tribunal Chennai in A.P.T.S.L.No. 16 of 2002.

98. The Land Tribunal vide its order dated **22.4.2004** set aside the Order of Assignment dated **14.6.2002** made in favour of Mrs.Dhanam and



W.P.(MD) Nos.19872 of 2015 etc., batch

Mrs.Gandhi the petitioner in **W.P.(MD) No.22149 of 2018** and **W.P.(MD) No. 22150 of 2019** and remanded the case back to the Asst Commissioner of Land Reforms.

99. In the said order, the Land Reforms Tribunal observed that the land originally belonged to late Mrs.Pichaiammal who sold the land to Mr.T.V.Alagarsamy and that due to a efflux of time Mr.B.N.Subbaramier perfected the title over the said land.

100. Thus, it is clear that there was sale deed executed by Mr.T.V.Alagarsamy in favour Mr.B.N.Subbaramier, contrary to what was portrayed before this Court. There are also no document to substantiate that Mr.B.N.Subbaramier had indeed perfected the title. In said proceedings, both late Mrs.Dhanam and Mrs.Gandhi were not a party.

101. The case of Mrs.P.Jeya [the petitioner in **W.P.(MD) No.19872 of 2015**] and Mrs.Vasantha, W/o. Late Mr.Pon Solamalai [the petitioner in **W.P. (MD) No.19879 of 2015**] is that after the land was purchased by Mr.T.V.Alagarsamy from Mrs.Pichaiammal and that in 1966 Mr.B.N.Subburamier purchased the land from Mr.T.V.Alagarsamy.



W.P.(MD) Nos.19872 of 2015 etc., batch

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102. As mentioned there are no records to substantiate the same title in favour of Mr.B.N.Subburamier. Thus, the lands which were declared as surplus and which is subject matter of the proceedings under the provisions of the Principal Act could not have been purchased by Late Mr.B.N.Subburamier.

103. In fact, the proceedings before the Authorised Officer Court, Land Reforms by the legal representatives of Mr.B.N.Subburamier in T.C.T.P.No. 251 of 1974 against late Mr.A.S.Ponniah Konar, a position was taken by the legal representatives of late Mr.B.N.Subburamier that Mr.B.N.Subburamier died in the year 1965.

104. However, it was stated that Mr.T.V.Alagarsamy sold the land to Mr.B.N.Subburamier in the year 1966. This is factually impossible as the purported sale is after the death of the Mr.B.N.Subburamier.

105. In the recitals to the Sale Deed dated **27.4.2006** which was executed by one Mr.S.R.Mohanram, S/o.Mr.S.N.T.Ramamoorthy in favour of Mrs P.Jeya [the Petitioner in **W.P.(MD)No.19872 of 2015**], who is incidentally also the daughter of late Mr.A.S.Ponnaiah Konar, it has been stated that the said vendor



W.P.(MD) Nos.19872 of 2015 etc., batch

Mr.S.R.Mohanram used to financially help Mr.B.N.Subburamier.

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106. It has been further stated in the said Sale Deed dated **27.4.2006** that Mr.B.N.Subburamier was working as an accountant in the textile shop of Mr.S.R.Mohanram and that the said Mr.B.N.Subburamier sold the property to him before his death. However, in the said Sale Deed dated **27.4.2006** there is no reference to the date of any registered Sale Deed by Mr.B.N.Subburamier in favour of Mr.S.R.Mohanram.

107. As mentioned above, there are also no records to substantiate that before the death of late Mr.B.N.Subburamier in the year 1966, the said Mr.B.N.Subburamier had sold the land to the said Mr.S.R.Mohanram by any registered sale deed or that Mr.B.N.Subburamier had earlier purchased the land from Mr.T.V.Alagarsamy in the year 1966 or 1965 before his death.

108. That apart, the sale dated **27.4.2006** has been registered at Parasala, Kerala by Mrs P.Jaya [the petitioner in **W.P.(MD) No.19872 of 2015**] to avoid objections being raised by the jurisdictional Sub-Registrar at Madurai within whose jurisdiction the land is situated. Thus, the rights claimed by Mrs P.Jaya



W.P.(MD) Nos.19872 of 2015 etc., batch

[the petitioner in **W.P.(MD) No.19872 of 2015**] as the owner of the property also cannot be given a seal of approval.

109. As far as, Mrs.Vasantha W/o. Late Mr.Pon Solamalai/daughter in law of Mr.A.S.Ponnaiah Konar [The Petitioner in **W.P.(MD)No.19879 of 2015**], who is the sister-in-law of Mrs P.Jeya [The Petitioner in **W.P(MD).No. 19872 of 2015**] is concerned, the right is claimed as a “cultivating tenants” under the provisions of the Tamil Nadu Cultivating Tenants Protection Act, 1955 through her father-in-law late Mr A.S.Ponnaiah Konar and later through her husband late Mr.Pon Solamalai who initiated proceedings earlier to cancel the assignment dated **14.6.2002** in favour of Mrs.Dhanam (The Petitioner in **W.P(MD).No.22149 of 2018**) and Mrs.Gandhi (The Petitioner in **W.P. (MD)No.22150 of 2018**).

110. It is evident that there have been collusive transaction surrounding the land both under the provisions of the Tamil Nadu Cultivating Tenants Protection Act, 1955 by the legal representatives of late Mr.B.N.Subburamier against the said late Mr.A.S.Ponnaiah Konar.



W.P.(MD) Nos.19872 of 2015 etc., batch

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111. During the course of hearing, it was mentioned that Mr.A.S.Ponnaiah Konar became the cultivating tenant under the provisions of the Tamil Nadu Cultivating Tenants Protection Act, 1955 from the rights obtained from the Legal Heirs of Mr.B.N.Subburamier.

112. There is no dispute that the so called rights were claimed against late Mr.B.N.Subburamier by late Mr.A.S.Ponnaiah Konar as a cultivating tenant under the provisions of the said Act and later by his son late Mr.Pon Solamalai and subsequently by his Mrs P.Jeya (The petitioner in **W.P. (MD).No.19872 of 2015**) and his wife is orchestrated attempted to create a maize to distort facts and to defeats to the object of the law makers under the provisions of Principal Act.

113. The records before this Court *prima facie* make it clear that Mr.B.N.Subburamier was never the owner of the land in question as there is no reported sale deed executed by Mr.T.V.Alagarsamy to Mr.B.N.Subburamier. In any event, even if a sale deed was executed, it has also not been filed.

114. That apart, the first sale of the property by Mrs.Pichaiammal to



W.P.(MD) Nos.19872 of 2015 etc., batch

Mr.T.V.Alagarsamy is dated **11.04.1962**. The Sale Deed itself was registered on **28.04.1962**. The name of the said Mr.A.S.Ponnaiah Konar was presumably included as the cultivating tenant of Mr.T.V.Alagarsamy on **17.04.1962** and not as a cultivating tenant of Mr.B.N.Subburamier. The official records have been created to give an impression that the Mr.A.S.Ponnaiah Konar was a cultivating tenant.

115. Since the proceedings under the Principal Act in respect of the subject land were pending, Mrs.P.Jeya, daughter of Mr.A.S.Ponnaiah Konar, the alleged cultivating tenant, has purchased the subject lands from the Legal Heirs of Mr.B.N.Subburamier vide Sale Deed dated **27.04.2006** vide Registered **Document No.666/2006** before the Sub Registrar Office, Parasalai, Kerala along with several other properties.

116. Even otherwise, the records of the case make it clear that Mr.Pon Solamalai the husband of Mrs.Vasantha [the petitioner in **W.P.(MD) No.19875 of 2015**] had in fact submitted a “Form-C” for claiming assignment of lands under the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965.



W.P.(MD) Nos.19872 of 2015 etc., batch

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117. However, it was rejected as Mr.Pon Solamalai failed to appear during the statutory enquiry conducted by the Special Deputy Tahsildar (Land Reforms), Madurai under Rules 8(3) of the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965.

118. Therefore, it cannot be said that no opportunity was given to Mr. Pon Solamalai through whom the petitioners in **W.P.(MD)No.19872 of 2015** and **W.P.(MD)No.19879 of 2015**, namely, Mrs.P.Jeya and Mrs.Vasantha have staked their claim as the owners and legal representatives.

119. In this case, the Final Statement was prepared under Section 12 of the Principal Act long after the sale by Mrs.Pichaiammal to Mr.T.V.Alagarsamy on **11.04.1962** and further alleged sale by Mr.T.V.Alagarsamy to Mr.B.N.Subburamier during 1965/1966, at which point of time, Mr.A.S.Ponnaiah Konar claimed that he was recognized as the cultivating tenant under the provisions of the Tamil Nadu Cultivating Tenants Protection Act, 1955.

120. It has to be remembered that as per Section 8(1) of the Principal Act, the return was to be filed by Mrs.Pichaiammal within 90 days of the lands



W.P.(MD) Nos.19872 of 2015 etc., batch

held with excess of 30 standard Acres on the date of commencement of the Principal Act namely **06.04.1960**.

121. Since, The Principal Act commenced on **06.04.1960**, it has to be also construed that Mrs.Pichaiammal inherited the lands including the surplus lands from Mrs.Rani Ponnammal vide a “**Will**” dated **23.07.1961** with effect from **28.09.1961**. Mrs.Pichaiammal ought to have filed a proper declaration/return within 90 days from the date of notification issued by the Government in this behalf.

122. In the return that was purportedly filed on or before the expiry of 90 days from **02.10.1962** (notified date) for the purpose of Section 8(1) read with Section 3(31) of the Principal Act which culminated in the Draft Statement dated **18.05.1971** under Section 10(1) of the Principal Act, only the names of the 1st buyer namely Mr.T.V.Alagarsamy was mentioned along with the name of Mr.A.S.Ponnaiah Konar as a cultivating tenant as on 17.04.1962. There is no reference to the name of Mr.B.N.Subburamier through whom the rights were claimed as the cultivating tenant.

123. Although there are no records to show a declaration was filed in



W.P.(MD) Nos.19872 of 2015 etc., batch

time by Mrs.Pichaiammal, in the Publication dated **18.05.1971** of the Government under Section 10(1) of the Principal Act it is recorded that on **17.04.1962**, Mr.A.S.Ponnaiah Konar, [the father of Mrs.P.Jeya, the petitioner in **W.P.(MD) No.19872 of 2015** and father-in-law of Mrs.Vasanth, the Petitioner in **W.P.(MD) No.19879 of 2015**] and Mr.T.V.Alagarsamy alone were the “interested persons”. It is not clear how Mr.A.S.Ponnaiah Konar name could have been included as an interested person as the rights claimed through Mr.B.N.Subburamier it self was without any document of title in favour of Mr.B.N.Subburamier.

124. This Court while interpreting Section 10(5) and Section 12 of the Principal Act in **Tirumathi Manoranjitham Vs. The Authorised Officer (Land Reforms), Nagapattinam East, Thanjavur District and another**, 1984 (2) MLJ 474, held that “Draft Statement” under Section 10(5) of the Principal Act shall be published and a copy thereof shall be served on the person concerned viz. the tenants, creditors and of other persons who in the opinion of the Authorized Officer are “interested” in the land to which such “Draft Statement” relates to.



W.P.(MD) Nos.19872 of 2015 etc., batch

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125. Adding further, the Court further held that under Section 12 of the Principal Act which deals with “Publication of Final Statement” of the Authorities, the Authorities ought to serve a copy of the Notice of Draft Statement under Section 10(5) of the Principal Act and also Final Statement upon the person specified therein and no such notice was served upon the appellant therein.

126. Since the Authorities therein treated the lands as that of the appellant's husband, namely, Aruchalam Pillai, it was held that there was a clear violation of the mandatory provisions of Section 10(5) and 12 of the Principal Act.

127. It should be borne in mind that in the said case, the G.O. declaring surplus lands was challenged by the appellant namely Mrs.Manoranjitham. Mrs.Manoranjitham's husband had earlier settled the property in her favour on **20.10.1959** by a Settlement Deed. The Court further recorded that the said Settlement Deed was a valid Settlement Deed.

128. Since the settlement of the land in question was prior to the commencement of the Act on **06.04.1960**, the question of furnishing returns of the said Mr.Arunachalapillai under Section 8(1) of the Principal Act did not



W.P.(MD) Nos.19872 of 2015 etc., batch

arise. Hence, the land which was subject matter of the dispute in the above case was outside the purview of the Principal Act.

129. Consequently, the requirements of the furnishing of the “Draft Statement” and “Final Statement” under Section 10(5) and Section 12 of the Principal Act were held mandatory as the land had been settled even before the Principal Act came into force. The facts of the present case is different in many aspects.

130. However, in this case, in absence of any record to show that the said Mr.B.N.Subburamier had perfected his title through Sale Deed or through a decree of Court, the so called rights claimed by Mr. A.S.Ponnaihi Konar himself is liable to be declared as dubious. The entry recording that the latter was a interested person for the purpose of Principal Act was itself without any basis.

131. Relevant portions Section 10(5) and Section 12 of the Principal Act as it stood then are reproduced from the above decision of the Court in **“Tirumathi Manoranjitham Vs. The Authorised Officer (Land Reforms), Nagapattinam East, Thanjavur District and another”**, 1984 (2) MLJ 474 is below:-



W.P.(MD) Nos.19872 of 2015 etc., batch

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Section 10(5) of the Principal Act	Section 12 of the Principal Act
“10. Preparation and Publication of Draft Statement as regards land in excess of the Ceiling Area: ... The draft statement shall be published and a copy thereof shall be served on the persons concerned, the tenants, creditors and all other persons who in the opinion of the authorised officer are interested in the land to which such draft statement relates, together with a notice stating that any objection to the draft statement shall be preferred within thirty days from the service of such notice. The Authorised Officer shall duty consider any objection received within the time specified in the said notice from the persons on whom a copy of the draft statement has been served or any objection received within thirty days from the date of the publication of the draft statement from any other person. The Authorized Officer shall, after giving the objector a reasonable opportunity of being heard and of adducing evidence, if any, and subject to such rules as may be made pass such orders as he deems fit....”	“12. Publication of final statement:- After the disposal of the objections, if any, preferred under sub-section (5) of Section 10 and after passing the order, if any, under sub-section (1) of Section 11, the Authorized Officer shall, subject to the provisions of this Act and the rules made thereunder, make necessary alterations in the draft statement in accordance with the order passed on the objections aforesaid and the order, if any, passed under sub-section (1) of Section 1, and shall declare the surplus land held by each person. The Authorised Officer shall thereafter publish a final statement specifying therein the entire land held by the person, the land to be retained by him within the ceiling area and the land declared to be surplus and such other particulars as may be prescribed and cause a copy thereof to be served on the persons referred to in sub-section (5) of Section 10. Such a statement shall, subject to the provisions of Section 14, be conclusive evidence of the facts stated therein.



W.P.(MD) Nos.19872 of 2015 etc., batch

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132. In the facts of the present case, there was no necessity to serve notice either on the said Mr.T.V.Alagarsamy or on Mr.A.S.Ponnaiah Konar under Section 10 of the Principal Act before the publication of the Final Statement under Section 12 of the Principal Act on **18.07.1973**.

133. As per Section 22 of the Principal Act, the Authorized Officer within whose jurisdiction such land is situated which were transferred by way of sale, exchange, surrender, settlement or in any other manner whatsoever except by way of bequest, or by a partition of the holding or part thereof on or after the date of commencement of the Act but before the notified date, the Authorized Officer within whose jurisdiction such land, holding or the major part thereof is situated may, after notice to such person and other persons affected by such transfer or partition and after such enquiry as he thinks fit to make, declare the transfer of partition to be void if he finds such transfer or partition was made with a view to defeat the provisions of the Act.

134. However, it has to be after due notice to the persons. In this case, there are no records to show such declaration has been made by the Authorized Officer under Section 22 of the Principal Act by notice to either



W.P.(MD) Nos.19872 of 2015 etc., batch

Mrs.Pichaiaimmal or Mr.T.V.Alagarsamy or Mr.A.S.Ponnaiah Konar who claims to be the cultivating tenant of Mr.T.V.Alagarsamy with effect from 17.04.1962.

135. There are no documents to substantiate that Mr.A.S.Ponnaiah Konar was registered as a cultivating tenant on the notified date. The Tenancy Record Register, Tenancy Receipts and Adangal Extract are only from the period 1975.

136. The Hon'ble Supreme Court had also occasion to consider the scope of Section 22 of the Principal Act in “**Authorized Officer, Thanjavur and another Vs. S.Naganatha Ayyar and others**”, (1979) 3 SCC 466. In Paragraphs 16 and 17, the Hon'ble Supreme Court held as follows:-

***“16. In the interpretation of Section 22 we too are Portia men. For this reason we reverse the view of the High Court that Section 22 will not apply to nullify any transaction of transfer or partition unless it is further shown that it is sham, nominal or bogus. Nor do we agree with Shree Ramamurthi that even if a transaction defeats the ceiling provisions, it may still be valid if the transfer is, from an individual point of view bona fide. The short reply is that from the community's angle, especially the landless community's angle hungering for allotment, the alienation, however necessary for the individual, is not bona fide vis-a-vis the community.*”**

17. Therefore, we allow the appeal in the light of the interpretation we have adopted, restore the Tribunal's holding



W.P.(MD) Nos.19872 of 2015 etc., batch

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and rule that if any transfer defeats the provisions of the Act by reducing the extent of surplus land in excess of the ceiling available from any person such transaction, bona fide or not, is void in the matter of computation of the permissible area and the surplus area. May be, that the transaction may be good for other purposes or may not be. The Authorised Officer is within his power if he ignores it as void for purposes of Section 22 Section 7 and other ceiling-related provisions.”

137. In “**Authorized Officer, Thanjavur and another Vs. S.Naganatha Ayyar and others**”, the respondents were the persons whose transfers were held to be void by the Authorized Officer as well as the Land Tribunal (Land Reforms Special Appellate Tribunal) which was upheld by the High Court on a narrow interpretation/construction of Section 22 of the Principal Act.

138. There alienations took many forms ranging from stridhana to *bona fide* sale but shared one common attribute that they were executed during the suspect spell, i.e., between the Date of Commencement of the Act and the Notified Date. The Hon'ble Supreme Court thus frowned upon the transfers and observed as follows:-

“3. Now, the respondents before us in the several appeals are persons whose transfers have been held void by the authorised officer and the Land Tribunal but upheld by the High Court on a narrow construction of Section 22 of the Ceiling Act. The alienations took many forms ranging from stridhana to bona fide sale but shared one common attribute that they were



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executed during the suspect spell, if one may say so, between the date of commencement of the Act and the notified date. The legislature, in its realistic anxiety and pragmatic wisdom, demarcated a lethal zone viz. the period between the two dates stated above when all landholders with lands in excess of the ceiling would desperately salvage their surplus by resort to devices, some bona fide some not, but all having the effect of frustrating the legislative objective of freezing holdings as on the date of commencement of the Act and seizing the surplus in terms of the Act for eventual equitable distribution, after payment of statutory compensation.”

139. The notified date was **02.10.1962** as in the present case. In

Paragraph 6, the Hon'ble Supreme Court observed as under:-

“6. The judicial choice from among these triple possibles depends on the Rules of statutory interpretation. In the present case the basic facts are beyond dispute. The legislature had a defined plan of providing for a ceiling on landholding, taking over the balance and distributing it among the landless according to priorities. In this perspective it defined the “date of the commencement” of this Act in Section 3(11) as meaning the 15th day of February, 1970. It also defined in Section 3(31) the notified date. As stated earlier, the Ceiling Act had a chequered career in court and, indeed, at one stage the whole Act was struck down as unconstitutional. However, now it is immune to attack having been included in the Ninth Schedule and there is no challenge to its vires before us. On account of extensive mischief done by alienations on a considerable scale calculated to undo the public policy behind agrarian reform the legislature felt the necessity to provide in Section 22 that transfers made between April 6, 1960 and October 2, 1962 would be void if they defeated the provisions of the Act. In all the cases before us the transfers which have been ignored by the Authorised Officer fall within this interregnum. That being admitted, the only question is



W.P.(MD) Nos.19872 of 2015 etc., batch

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whether the lethal effect of Section 22 operates only in the case of transfers which are sham and specifically intended to defeat the Act and does not affect transfers which are otherwise bona fide or is so pervasive that if the effect of the transfer is to defeat the provisions of the Act, whatever the intent of the parties, the transfer is void and can be ignored vis-a-vis the Ceiling Act and the Authorised Officer, may legitimately proceed to compute the surplus area on this basis.”

140. The said Mr.Pon Solamalai was shown as a person deceased at the time of passing of Order in **W.P.(MD) No.7152 of 2012** which was filed by him along with his sister Mrs.P.Jeya [the petitioner in W.P.(MD) No.19872 of 2015]. Therefore, Mr.Pon Solamalai was represented by his Legal Representatives / Legal Heirs namely Mrs.Vasantha [the Petitioner in **W.P. (MD) No.19879 of 2015**], Mr.Ramachandran, Mr.Karikalan, Mr.T.Ponmalai, Mrs.S.Manonmani wherein, the Legal Heirs were shown as the second to sixth respondents **W.P.(MD) No.7152 of 2012**.

141. While the said Mrs.Vasantha [the Petitioner in **W.P.(MD) No.19879 of 2015**] claims right to the subject lands as the cultivating tenant through her late husband Mr.Pon Solamalai and her father-in-law namely Late Mr.A.S.Ponnaiah Konar, Mrs.P.Jeya [the writ petitioner in **W.P.(MD) No.**



W.P.(MD) Nos.19872 of 2015 etc., batch

19872 of 2015] who is the sister of Late Mr.Ponsolamalai claim rights from the Sale Deed. There is ambiguity in the claim in filed in the name of Mrs.P.Jeya [the Petitioner in **W.P.(MD) No.19872 of 2015]** on the strength of **Sale Deed** dated **27.04.2006** executed in Parasala, Kerala.

142. The petitioner Mrs.P.Jeya in W.P.(MD) No.19872 of 2015 claims her right to the subject lands vide her Sale Deed dated 27.04.2006 vide Document No.666/2006 registered at Parasala, Kerala, and also as a cultivating tenant through her father Mr.A.S.Ponnaiah Konar and brother Mr.Ponsolamalai.

143. Be that as it may, rights under the provisions of the Tamil Nadu Cultivating Tenants Protection Act, 1955 cannot be said to have enured in favour of Mr.A.S.Ponnaiah Konar as the so-called owner namely Mr.B.N.Subburamier had neither a registered Sale Deed in his favour nor any right in the form of a decree declaring his title over the property.

144. If Mr.T.V.Alagarsamy had sold the land to Mr.B.N.Subburamier, as was stated during the course of hearing, he would have ceased to be an “interested person” under Section 10(1) of the Principal Act. The only reason



W.P.(MD) Nos.19872 of 2015 etc., batch

why the name of the Mr.T.V.Alagarsamy and Mr.A.S.Ponnaiah Konar has been shown as “interested persons” instead of Mr.B.N.Subburamier, is because even on the date of publication under Section 10(1) of the Principal Act, there were no documents to establish any title in the name of Mr.B.N.Subburamier. Therefore, only Mr.T.V.Alagarsamy name would have been reflected. Since, Mr.A.S.Ponnaiah Konar had no dealings with Mr.B.N.Subburamier, his name could not been included as an “interested person”.

145. If there was a sale by Mr.T.V.Alagarsamy to Mr.B.N.Subburamier as was claimed, latter’s name would have been reflected. Further, as per **Section 17 of the Registration Act, 1908**, sale/transfer cannot said to have taken place unless the Sale Deed was executed and was also registered. Similarly, under **Section 54 of the Transfer of Property Act, 1882**, transfer of immovable property can be made only by a registered instrument.

146. Since the **Sale Deed** dated **11.04.1962** itself was registered on **28.04.1962**, it is not clear how the name of Mr.A.S.Ponnaiah Konar was recognized by the Authorized Officer under Section 8 read with Section 10 of the Principal Act on **18.05.1971**, if **Mr.A.S.Ponnaiah Konar** had no transaction with **Mr.T.V.Alagarsamy** and they were strangers to each other.



W.P.(MD) Nos.19872 of 2015 etc., batch

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147. Therefore, the receipts issued by the so called legal representatives of late Mr.B.N.Subburamier to Mr.A.S.Ponnaiah Konar cannot come to the rescue of either Mrs.P.Jeya, the petitioner in **W.P(MD).No.19872 of 2015** or Mrs.Vasantha, the petitioner in **W.P(MD).No.19879 of 2015**.

148. As such, name of Mr.A.S.Ponnaiah Konar could not have been included under Section 10(1) of the Principal Act dated **18.05.1971** after the Registration of Sale dated **11.04.1962** to Mr.T.V.Alagarsamy on **28.04.1962** by Mrs.Pichaiaammal.

149. Therefore, these writ petitions i.e., **W.P(MD).No.19872 of 2015** and **W.P(MD).No.19879 of 2015** are liable to be dismissed as I have no doubt that neither of these parties are cultivating tenants under the said Act by themselves or through their predecessor namely Mr.A.S.Ponnaiah Konar. Neither of these parties nor the said Mr.A.S.Ponnaiah Konar were entitled to any notice or protection under the provisions of the Tamil Nadu Land Reforms Act, 1961. They are not “all other persons” for the purpose of section 10 (5) of the Principal Act.



W.P.(MD) Nos.19872 of 2015 etc., batch

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150. Having held **W.P(MD).No.19872 and W.P(MD).No.19879 of 2015** filed by Mrs.P.Jeya and by Mrs.Vasantha respectively are liable to be dismissed, further issue for consideration is whether the petitioners in **W.P(MD).No.22149 of 2018 and W.P.(MD).No.22150 of 2018**, namely, Mrs.Dhanam and Mrs.Gandhi are to be allowed or dismissed for the reasons stated in the Impugned Order dated 23.7.2015 passed by the Revenue Divisional Officer reaffirming the cancellation of the assignment dated **14.6.2002** by the proceedings of the Land Tribunal dated 22.4.2004 in A.P.T.S.L No.16 of 2002 and the consequential order of the Assistant Commissioner of Land Reforms in its proceedings dated 24.6.2004 in M.R.IV.No. 225 (B).

151. A reading of the Impugned Order dated 23.07.2015 passed Authorized Officer (Land Reforms)-cum-Revenue Divisional Officer mentions two reasons for cancelling the assignment made in favour of late Mrs.Dhanam, the petitioner in **W.P.(MD) No.22149 of 2018** and the Petitioner in **W.P.(MD) No.22150 of 2018** namely Mrs.Gandhi.

I. There being 'no cultivation' by them and

II. Land being reclassified as an Urban Land due to urban agglomeration.



W.P.(MD) Nos.19872 of 2015 etc., batch

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152. Learned Senior Counsel for the petitioners in **W.P.(MD) No.22149 and W.P.(MD) No.22150 of 2018** has referred to the decision of this Court in **R.Shanmugam Vs. A.Annadurai and others in Contempt Petition (MD) No. 2211 of 2017** and **Sub.A.(MD) No.247 of 2017** dated 16.04.2021.

153. In **R.Shanmugam** (cited supra), the facts were that the land was assigned to the petitioner therein in the year 1975 and an action for cancellation was initiated after a lapse of 43 years in the year 2018 that too after the petitioner therein had approached this Court seeking for correction of an error in the Town Survey Records. Before the Court, the authorities had conceded that the land was assigned to the petitioner and they also conceded that they are not making any development work in the land assigned to the petitioner situated in T.S.No.24/10.

154. Therefore, the facts of the case in **R.Shanmugam** (cited supra) are not relevant for the purpose of deciding the dispute in the present case as they are distinguishable.



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155. Rule 9 of the **Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965** provides for conditions of assignment of surplus lands to those who are eligible under Rule 5 of the aforesaid rules. Clause (iv) to Rule 9 of the aforesaid Rules mandates direct cultivation of the land assigned.

156. Clause (iv) to Rule 9 of the **Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965** reads as under:-

“9. Conditions of assignment (1) The assignment of land shall be subject to the following conditions, namely the

- (i)
- (ii)
- (iii)
- (iv) The assignee shall engage himself in the direct cultivation of the land assigned:

Provided that this condition shall not be applicable to persons referred to in Rule 5 (1) (v) and persons who are physically and mentally disabled. women including widows, and old persons who have no dependants or family members to do cultivation on their behalf.

- (v)
- (vi)
- (vii)”

157. Proviso to Clause (iv) to Rule 9 of the aforesaid rules exempts persons who are physically or mentally disabled, women including widows, and



W.P.(MD) Nos.19872 of 2015 etc., batch

old persons who have no dependents or family members to do cultivation on their behalf.

158. Apart from the conditions specified in Rule 9 of **Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965**, Rule 13 of the said Rules also empowers the Government to retain such portion of the surplus land acquired by the Government, as is necessary for the benefit of the public. However, the Impugned Order dated 23.07.2015 has neither invoked Rule 9 of the **Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965** nor Rule 13 of the said Rules citing any public purpose barring the two reasons stated above.

159. Keeping in view the Constitutional mandate regarding economic justice under Article 38 of the Constitution, and that the distribution of material resources of the community to subserve the common good and should not result in common detriment under Clauses (b) and (c) of Article 39, and also considering the fact that late Mrs.Dhanam and Mrs.Gandhi had the lands assigned to them earlier on payment of sufficient consideration at the time of assignment and since Patta was also granted after following the provisions under the **Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules,**



W.P.(MD) Nos.19872 of 2015 etc., batch

1965, I am inclined to direct the Authorized Officer (Land Reforms)-cum-Revenue Divisional Officer, Madurai (third respondent in **W.P.(MD) No.19872 & W.P.(MD) No. 19879 of 2015**/second respondent in **W.P.(MD) No.22149 of 2018 & W.P.(MD) No. 22150 of 2018**) to assign fresh surplus lands if these Petitioners were otherwise entitled to such lands.

160. A fresh order may be passed taking note of all the attendant circumstances for assigning lands for agricultural purposes to the family. To that extent, the impugned order is set aside and the case is remitted back to the 3rd respondent to pass fresh order on merits. As there is no possibility of agricultural activity in the land, the land may be used strictly for public purpose.

161. The above directions are subject to the apprehension of the Court as there appears to be an attempt in the past to corner the subject lands by these two petitioners in **W.P.(MD)Nos.22149 & 22150 of 2018** namely, late Mrs.Dhanam and Mrs.Gandhi as well through the agency of their brother Mr.Karuppiah, who worked as a Revenue Surveyor who may have retired from the Department and their sister-in-law namely Mrs.Indrani, W/o.Mr.Karuppiah, who was the Power of Attorney Holder of the original assignees namely



W.P.(MD) Nos.19872 of 2015 etc., batch

Mr.P.A.Karruppasamy and Mr.P.S.Kamala, and Mrs.Indrani, W/o. Mr.Karuppiah, was the defendant in **O.S.No.331 of 1993** initiated by Mr.Pon Solamalai before the District Munsif's Court at Melur.

162. Therefore, I am inclined to hold that a proper assessment has to be made as to whether these two petitioners were indeed entitled to assignments independently under the provisions of the **Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965**. This exercise may be carried out within a period of six months of receipt of this order.

163. The above direction is also subject to verification as to whether the original assignment on 14.6.2002 in favour of these two petitioners itself was *bona fide* or not by the Department.

164. In the result, **W.P.(MD) Nos.19872 of 2015 & 19879 of 2015** are dismissed and **W.P.(MD) Nos.22149 of 2018 & 22150 of 2018** are disposed of with the above observations. No costs. Connected Miscellaneous Petitions are closed.

Index: Yes/No

07.11.2024

Internet: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No



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W.P.(MD) Nos.19872 of 2015 etc., batch

C.SARAVANAN, J.

JEN/arb

Pre-Delivery Common Order
in W.P.(MD) Nos.19872 of 2015 etc., batch

07.11.2024