



W.P.(MD) No.1511 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.1511 of 2016

and

W.M.P.(MD) Nos.1288 of 2016 and 24516 of 2024

M.Ganesan

... Petitioner

/vs./

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

2.The Assistant Commissioner,
Land Reforms,
Madurai.

3.K.Arasan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed the 1st respondent herein in D2/9395/2013 dated 13.07.2015 and quash the same as illegal and consequently direct the respondents to consider the review application filed by the Petitioner herein under section 82



W.P.(MD) No.1511 of 2016

of the Tamil Nadu Land Reforms (Fixation of Ceiling Lands) Act 8/61 as amended by Act 17 of 1970 hereinafter referred to as the said Act in accordance with law and to revise the final statement under Section 12 of the Act published in Tamil Nadu Gazette dated 01.04.1981 and the notification under Section 18(1) of the said Act published in the Tamil Nadu Gazette dated 16.07.1981 and in consequence thereof cancel the assignment made in an extent of 50 cents of land comprising in S.No.2199/B2 of Ganguvarpatti village part measuring an extent of 0.50 acres in favour of the third respondent by strictly and scrupulously following the statutory requirement and the instructions without any deviation.

For Petitioner : Mr.W.Pamelin

For R1 & R2 : Mr.J.K.Jeyaseelan
Government Advocate

ORDER

The challenge in the writ petition is to the order of rejection of the petition filed by the petitioner under Section 82 of the Tamil Nadu Land Reforms (Fixation of Ceiling Lands) Act praying to cancel the order of assignment made in favour of the second respondent.

2. The learned counsel for the petitioner would submit that the petitioner's father had purchased a land in the year 1972 from one Ashwath Rao and from that



W.P.(MD) No.1511 of 2016

day, he had been in possession of the property till his death and thereafter, the petitioner being the legal heir. He would submit that even though a draft statement was published prior to the purchase, the land purchased by the petitioner's father was not included in the said draft, but in the subsequent proceedings, the lands have been included without notice to the petitioner's father, in whose name the revenue records were mutated.

3. He would submit that the petitioner's father died in the year 1978 and any further proceeding beyond the said proceeding is a non-est proceeding and therefore, the assignment of the surplus land in favour of the second respondent would also have to fall. Hence, the order of rejection made by the respondents holding that such application is time barred firstly is without merits and therefore, he prayed this Court to set aside the order impugned and remit the matter back to the authority to hear the same on merits.

4. On the contrary, Mr.J.K.Jeyaseelan, learned Government Advocate appearing on behalf of the respondents 1 and 2 would contend that even a perusal of the sale deed, under which the petitioner's father had purchased the property,



W.P.(MD) No.1511 of 2016

WEB COPY would indicate that such purchase was subject to the proceedings under law and in case the said lands are declared as surplus lands, the vendor had agreed to repay a sum of Rs.4,000/- without interest. Hence, according to him, the said sale deed itself was a contingent sale deed and since the lands had been declared as surplus by the Government, which had become final as early as in the year 1979, the petitioner's father utmost would be entitled to get the refund of the sale consideration from the vendor and he cannot claim that the entire proceeding is a non-est proceeding.

5. He would further submit that the entire claim of the petitioner had been made nearly 30 years after the grant of assignment in favour of the second respondent and 43 years after the lands have been declared as surplus. Hence, he would submit that no indulgence is required to be made by this Court in this writ petition.

6. I have considered the rival submissions made by the learned counsel on either side.



W.P.(MD) No.1511 of 2016

WEB COPY

7. Even though the petitioner had claimed that his father had purchased the land in the year 1972 much before the final statement was made, it is an admitted case that the lands have been purchased after the Act had come into force. As rightly pointed out by the learned Government Advocate, even in the recitals in the sale deed, by which the petitioner's father acquired the title in clear terms, it had been indicated that in case the lands have been declared as surplus lands in the proceedings initiated by the Government, then the petitioner's father was only entitled to refund of Rs.4,000/- being the sale proceeds without interest. When such categorical recitals have been made in the sale deed, under which the petitioner's father had purchased the lands, the petitioner cannot state that the entire proceeding is a non-est proceeding. Even if the order rejecting the application is held to be bad and is remitted back, there will be no useful purpose in remitting the matter back to the authority in view of the recitals in the sale deed discussed supra.

8. In such view of the matter, I find no infirmity in the order impugned in this writ petition and accordingly, the Writ Petition stands dismissed. However,



W.P.(MD) No.1511 of 2016

WEB COPY

there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

04.12.2024

To

- 1.The Principal Secretary,
Commissioner of Land Reforms,
Ezhilagam, Chepauk,
Chennai 600 005.
- 2.The Assistant Commissioner,
Land Reforms,
Madurai.



WEB COPY



W.P.(MD) No.1511 of 2016

K.KUMARESH BABU, J.

mm

W.P.(MD) No.1511 of 2016

04.12.2024