IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.04.2025

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THE HONOURABLE Mr JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE Mr.JUSTICE RMT. TEEKAA RAMAN

W.M.P.No.14310 of 2021
IN
W.P.No.6264 of 2001

Tuticorin Multi Purpose Social Service Society
Rep. by its Secretary .. Petitioner

Vs.

1.The Secretary to the Government
Revenue Department, Fort St. George
Chennai 600 009

2.Assistant Commissioner (Land Reforms)
Tirunelveli

3.The Tamil Nadu Land Reforms
Special Appellate Tribunal
Chennai .. Respondents

Writ Miscellaneous Petition filed under Article 226 of the Constitution of India, praying to clarify the direction issued in para 10 of the order dated 19.11.2019 made in W.P.No.6264 of 2001, regarding the jurisdictional authority to decide the issue of the application of the petitioner u/s 37A&B r/w Sec.3(22) of Tamil Nadu Reforms (Fixation of Ceiling on Land) Act of 1961, as amended by Act 55 of 1987.

For Petitioner : Fr.Xavier Arul Raj, Senior Counsel

For Respondents : Mr.A.Selvendran, Special Government Pleader

ORDER

(Made by R. SURESH KUMAR, J.)

This miscellaneous petition has been filed to clarify the direction issued in paragraph 10 of the order dated 19.11.2019 in W.P.No.6264 of 2001.

2. Heard Fr.Xavier Arul Raj, learned Senior Counsel appearing for the petitioner and Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents.

3. In paragraph 10 of the order dated 19.11.2019 in W.P.No.6264 of 2001, in the matter of *Tuticorin Multi Purpose Social Service Society Vs. The Secretary to the Government and two others*, a Division Bench of this Court has passed the following order :

> " 10. Accordingly these orders are set aside and the matter stands remitted back to the Special Commissioner, Commissionerate of Land Reforms, Ezhilagam Chepauk, Chennai-5. It is needless to state that the aforesaid authority shall issue fresh notice to the petitioner and thereafter take decision in the light of the discussions made above and pass appropriate orders within a period for twelve weeks from the date of receipt

of a copy of this order and the petitioner is also at liberty to approach the said authority and file additional documents if so required and the authority concerned shall also give personal hearing to the petitioner. In such view of the matter we leave the other issues open."

4. Since the application submitted by the petitioner seeking exemption was to be decided by the Government invoking the power under Section 37B of the Tamil Nadu Reforms (Fixation of Ceiling on Land) Act, 1961 (in short "the Act"), the direction could have been sought for by the petitioner only to the State Government, instead, at the instance of the petitioner, the Division Bench has given a direction to the Special Commissioner, Commissionerate of Land Reforms, Ezhilagam, Chepauk, Chennai-5.

5. Pursuant to the said direction, when the petitioner approached the Commissioner/Special Commissioner of Land Reforms, the said authority *i.e.*, the Land Commissioner, Chennai, by his proceedings dated 08.02.2021, passed the following order :

"ORDER

During the hearing the petitioner sought relief under Section 37-B of the Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Act.

According to Section 37-B of the Act, the public trust has to apply

> *before the Government for grant of permission under Section 37-B of the Act to hold or acquire land for educational or hospital purpose. Further, as per Section 37-B of the Act, Government is the authority to grant permission to public trust to hold lands for educational and hospital purpose. In view of the limitations imposed by Section 37-B of the Act, the undersigned is not empowered to intervene in this matter anyway. Hence, the petitioner is directed to approach the competent authority to get the remedy sought by him in this matter."*

Since the power under Section 37B of the Act, has to be exercised only by the State Government and not by the Commissioner/Special Commissioner of Land Reforms, the petitioner was in fact directed to approach the appropriate authority to sought remedy in the matter.

6. In view of the same, the present clarification petition has been filed seeking a clarification that the petitioner's request can be addressed to the State Government *i.e.,* the Secretary to Government, Revenue Department and if so, the State Government can be directed to consider the same and pass orders. Therefore, to that extent, clarification is sought for.

7. We have also heard Mr.Selvendran, learned Special Government Pleader appearing for the respondents, who is not confronting the legal position with regard to the fact that the power under Section 37B of the Act has to be exercised

by the State Government and not by the Land Commissioner.

8. In that view of the matter, we are inclined to give the following clarification :

> “It is now open to the petitioner to make an application to the State Government represented by the Secretary to Government, Revenue Department, seeking exemption for the land in question under Section 37B of the Act and if any such application is made by the petitioner within a period of four weeks from the date of receipt of a copy of this order, the same shall be considered and decided by the Secretary to Government, Revenue Department, under the said provision and also on the basis of the discussion and observation made in the order of the Division Bench dated 19.11.2019 and pass orders thereon, on merits and in accordance with law, within a period of three months thereafter.”

9. With this clarification, this miscellaneous petition stands disposed of.

(R.S.K., J.) (T.K.R., J.)
02.04.2025

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Index : Yes/No Neutral Citation : Yes/No

R. SURESH KUMAR, J.
AND

RMT. TEEKAA RAMAN, J.

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To

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