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W.P.No.24759 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.24759 of 2021  
and WMP No.26036 of 2021

S.P.Selvashanmugham

.... Petitioner

-Vs-

1.The Union of India

Rep.by its Secretary to the Government  
Department of Revenue and Disaster Management  
Government of Puducherry  
Puducherr.

2.The Authorized Officer cum Deputy Collector (Revenue)

Land Reforms  
Office of Deputy Collector  
Karaikal.

3.The Sub Registrar

Thirunallar.

..Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents, their men, agents, subordinates etc., from interfering with the petitioner's right to deal with, sell, lease mortgage, alienate, register or in any other manner, transact with the schedule properties.



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For Petitioner : Mr.Srinath Sridevan  
Senior Counsel

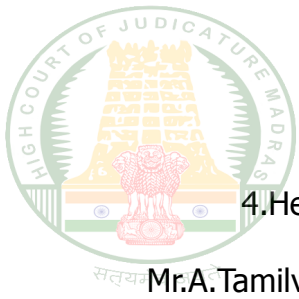
For Respondents : Mr.A.Tamilvannan  
Additional Government Pleader  
Puducherry

### ORDER

This writ petition has been filed for the issue of a writ of mandamus forbearing the respondents from interfering with the right of the petitioner to deal with the subject properties.

2.The case of the petitioner is that the 2<sup>nd</sup> respondent initiated proceedings under the Puducherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 [hereinafter referred to as 'the Act'] against the parents of the petitioner. Draft statement was issued under Section 9 of the Act in the year 1976. The petitioner's father died on 17.03.1979 and mother died on 30.10.1994. The property was bequeathed in favour of the petitioner under a Will dated 01.04.1970.

3.The grievance of the petitioner is that the subject properties are the retained lands over which the petitioner has the absolute right and he is entitled to deal with the same. However, the respondents were not permitting the petitioner to deal with the property and it is under these circumstances, the present writ petition has been filed before this Court.



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4.Heard Mr.Srinath Sridevan, learned Senior Counsel for the petitioner and

Mr.A.Tamilvannan, learned Additional Government Pleader for R1 to R3.

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5.It is quite clear from the materials placed before this Court that out of the seven properties that has been shown as schedule to the writ petition, there is no dispute that the property in Survey Nos.138, 115, 575 and 171/2 are the retained lands within the ceiling area of the owner of the property. Insofar as the other three lands are concerned, it has not been shown as the retained lands and therefore the petitioner cannot claim any right over the same.

6.The learned Additional Government Pleader appearing on behalf of the respondents by pointing out to Section 22 (2)(a) of the Act, submitted that if any person makes any transfer in contravention of the provision under Section 22(1), the Government has the power to take possession of land, equal to the land which is held by such person, where such recovery is not possible from the transferee. The learned counsel therefore submitted that even though the four properties identified are within the ceiling area and those are the retained lands, if in case the surplus lands are not able to be taken possession, the lands that are available as retained lands can always be acquired by the Government. The learned Additional Government Pleader further submitted that the proceedings have not reached finality and therefore, this power is available with the Government.



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7. In the considered view of this Court, there is no dispute with regard to the power that is available to the Government under Section 22(2)(a) of the Act. For the present this Court is only dealing with the retained lands which are within the ceiling of the owner. The petitioner is claiming right by virtue of the Will executed in his favour by his mother. It is always left open to the petitioner to deal with these lands in Survey Nos.138, 115, 575 and 171/2. The respondents cannot object for the same. Insofar as the other three properties in the schedule to the writ petition, the petitioner has to necessarily workout his right as provided under the Act and it cannot be dealt with.

8. This writ petition is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No  
NCS : Yes/No  
KP



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To

- 1.Secretary to the Government  
Union of India  
Department of Revenue and Disaster Management  
Government of Puducherry  
Puducherr.
- 2.The Authorized Officer cum Deputy Collector (Revenue)  
Land Reforms  
Office of Deputy Collector  
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- 3.The Sub Registrar  
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**N.ANAND VENKATESH, J.**  
KP

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