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WA No. 64 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-10-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

**W.A. No. 64 of 2021
and C.M.P.No.569 of 2021**

A.Narayanan
S/o Abimannan No.80-c, School St.,
Kattukuppam Village, Manapet,
Puduchery State 607 402.

...Appellant(s)

Vs

Ranganathan (deceased)

Ettiyan (deceased)

Mangalakshmi (deceased)

Dhanam (deceased)

1.Murugesan S/o Kathirvel,
Residing at Pallor Village Puducherry

2.Kanagavalli
W/o Ranganathan, Res At, Paloor
Village, Puducherry,



Anjalai (Deceased)

3.The Government of Puducherry
Rep. by its Secretary
Land Revenue Department
Puducherry.

4.Commissioner of Land Reforms
Govt. Of Puducherry Land Revenue
Department, Puduherry.

5.The Sub-collector
(Revenue – South)
Government of Puducherry, Villianur,
Puducherry.

Shanmugam (deceased)

...Respondent(s)

PRAYER

The Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order made in W.P. No.22316 of 2009 dated 05.11.2019.

For Appellant(s): Mr. R. Bharani Dharan

For Respondent(s): No appearance for R1 and R2

Mr.V.Vasantha Kumar
Additional Government Pleader
For R3 to R5 (Pondicherry)



JUDGMENT

(Judgment of the Court was delivered by **S. M .SUBRAMANIAM, J.**)

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Writ Court order dated 05.11.2019 in W.P.No.22316 of 2009 is under challenge in the intra-Court Appeal filed under Clause 15 of the Letters Patent.

2. The Authorised Officer (Land Reforms), Pondicherry, passed an order in proceedings dated 22.01.1990 that Abhimannan and Shanmugam were the cultivating tenants in the subject lands as described in the writ proceedings. The Authorised Officer verified the *bona fides* of the application filed by the above two persons in Form 14 dated 14.09.1976 and declared them as cultivating tenants in exercise of the powers conferred under Sub-rule (4) of Rule 24 of the Pondicherry Land Reforms (Fixation of Ceiling on Land and Disposal of Surplus Lands) Rules, 1975. Consequently, Abhimannan and Shanmugam were allowed to continue in possession of surplus lands bearing R.S.No.13 of Manapet Village measuring 0.99.00 Hec. on lease from 1976 onwards i.e. from the date of taking possession by the Government subject to various conditions stipulated in sub rule (5) of Rule 24 of Pondicherry Land Reforms (Fixation of Ceiling on Land and Disposal of Surplus Lands) Rules, 1975. The above benefit was granted subject to the following conditions:-

(i) The petitioners should pay the arrears of lease amount from 1976 to be fixed by the Government and also give an undertaking to the effect that they will pay arrears of rent as fixed by Government within 15 days from the date of this order.

(ii) Thiru.Abhimannan shall continue in possession of land bearing R.S.No.13 of Manapet Village measuring 0.99.00 Hec. as lessee of Government while Thiru.Shanmugam shall continue in



possession of lands measuring 1.32.00 Hect. as lessee of Government.

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3. The learned counsel for the appellant would mainly contend that pursuant to the orders of the Authorised Officer (Land Reforms), Pondicherry, dated 22.01.1990, the appellant, who is the son of Abimannan continue to cultivate the land and in possession.

4. Mr. V.Adhimoolam filed a Writ Petition in W.P.No.6863 of 2008 seeking a direction to the respondents in the said Writ Petition to implement the assignment order in respect of the lands bearing in S.Nos.13/11 and 14/1 situate of Manapet revenue village by putting writ petitioner in possession of the assigned lands. The contention in the writ petition was that they are the assignees, but possession was not handed over to them. The Writ Court passed an order on 13.08.2008, directing the Authorised Officer-cum-Deputy Collector (Revenue) South, Government of Puducherry, to pass appropriate orders within a period of two months.

5. In view of the order passed in W.P.No.6863 of 2008, the Authorised Officer under the Pondicherry Land Reforms (Fixation of Ceiling on Land and Disposal of Surplus Lands) Rules, 1975, conducted an enquiry and passed final orders in proceedings dated 04.12.2008. The findings in the said order reads as under:-

“Now, therefore, in exercise of the powers conferred under sub-rule (4) of the Rule 24 of the Pondicherry Land Reforms (Fixation of Ceiling on Land, Compensation for and Disposal of



Surplus Lands) Rules, 1975, I, Dr.Franklin Laltinkhuma, I.A.S., Authorised Officer, hereby order that Thiru.A.Narayanan S/o.Abimannan (Late) shall continue in possession of surplus land at R.S.No.13 to an extent 0-99-00 Ha and Thiru.Shanmugam S/o.Krishnakavundar shall continue in possession of surplus land to an extent 1-32-00 Ha at R.S.No.13 of Manapet Revenue Village as lessees of Govt. subject to the condition that they should pay rent arrears from the year 2002 to till date in one lumpsum within fifteen days from the date of this order and the lease may be renewed subject to the conditions stipulated in sub rule 5 of Rule 24 of the Pondicherry Land Reforms (Fixation of Ceiling on Land, Compensation for and Disposal of Surplus Lands) Rules, 1975.”

6. Challenging the above order dated 04.12.2008, seven writ petitioners filed a Writ Petition in W.P.No.22316 of 2009. In the said Writ Petition, the impugned Writ Order has been passed on 05.11.2019 and challenging the said order, present Writ Appeal came to be instituted. The Sub-Collector (Revenue) South-cum-Authorised Officer (Land Reforms), Government of Puducherry filed counter affidavit in W.P.No.22316 of 2009. In paragraph Nos.4 and 5 of the counter affidavit, the status of the appellant's father and the appellant as cultivating tenants have been reiterated by the Authorised Officer and the said paragraphs are extracted hereunder:-

“4. I submit that the Authorised Officer invited applications for distribution of surplus lands to the landless poor. After considering the respective claims of applicants, he had sent notices of provisional assignment, in form 39 whereby they were required to pay assessment amount and offer their willingness for the assignment. The petitioners 2 and 5 herein who are the original assignee and the other petitioners who were the legal heirs of the original assignees, failed to offer their willingness and execute deed of assignment in Form 40 as required. They also failed to use the land for a long period of



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time from the date of provisional assignment. Form 39 is a formal notice to be issued to the assignees intimating the proposed assignment on the payment of assessment amount and the assignment order will be issued after getting their willingness and on execution of deed of assignment in Form 40. Thereafter, mere service of notice in Form 39 does not confer any right to the petitioners over the land.

5. I submit that the fourth and fifth respondents herein were the cultivating tenants of the land in question before the intimation of land reforms proceedings against the assesses. Thiru Thanappa Diagou and Jaganou Diagou and therefore they have submitted application under Section 17(5) of “Land Reforms Act” to allow them to continue the cultivation as cultivating tenant after assignment of the quantum of the surplus land. Initially the request of the fourth and fifth respondents were rejected on the ground that they could not establish their tenancy at the time of taking possession of surplus land and subsequently as per the order of the Land Commissioner vide order dated 24.7.1979 the Authorized Officer has conducted a detailed enquiry and confirmed that the 4th and 5th respondents were the cultivating tenants of the land in question and issued orders to continue in possession of the land as lessee under the Government vide order dated 22.1.1990. Even as the petitioners were well aware of all these developments, they did not challenge the orders passed by the Authorized Officer. Therefore, they are estopped from challenging the subsequent order passed by then Authorized Officer as per the directions of the Hon'ble High Court vide order No.2748/ DCRS/LR/C1/2007 dated 4.12.2008. Hence, the question of allowing the petitioners to put in possession of the land does not arise.”



7. Presuming that the writ petitioners in W.P.No.22316 of 2009 were the original assignees of the year 1976, the counter affidavit filed by the Authorised Officer shows that those alleged assignees have not complied with the conditions stipulated in the order of assignment nor possession has been handed over to those assignees. Thus, the claims set out by those assignees after several years cannot be entertained. The status of the appellant as cultivating tenant has been recognised initially in the year 1990 and subsequently, in the year 2008 by the Authorised Officer based on the orders of Writ Court directing the authorities to decide the issues on merits. That apart, the first order passed by the Authorised Officer in proceedings dated 22.01.1990 recognising the father of the appellant as cultivating tenant remains unchallenged. However, by filing a Writ Petition in the year 2008, after a lapse of about 18 years from the date of order passed by the Authorised Officer, Writ Petition came to be instituted and the Court directed the Authorised Officer to pass an order on merits. Thus, it is apparently clear that a dead cause of action had been restored after several years by instituting a Writ Petition, which is impermissible.

8. Practise of filing writ petitions to consider and dispose of the representation has been adopted by the litigations on some occasions to restore the dead cause of action. When representations are sent and writ petitions have been filed, the Writ Courts normally direct the authority to consider and pass appropriate orders. Once, such an order is passed, on



merits, it is taken as a fresh cause for the purpose of re-adjudication of issues, which were already adjudicated or become final. Such practice prevailing presently amongst the litigants at no circumstances be encouraged by the High Court. Even for issuing a direction to consider representation, person approaching the Court has to establish his rights and representation must be entertainable under law. In the absence of any right or entertainability of a petition, no direction can be issued even to consider and dispose of the same. Such directions would do no service to the cause of justice but, litigants either restore the dead cause of action or lead to multiplicity of litigations. Either of circumstances cannot be appreciated since it would result in abuse of judicial process. In the present case, the right of the appellant was recognised as cultivating tenant by the Authorised Officer vide order dated 22.01.1990. The said order remains unchallenged. In 2008, a fresh Writ Petition was filed holding that Writ Petitioners in W.P.No.6863 of 2008 were assignees of the year 1976. However, the counter filed by the Government would show that the assignment conditions were not complied. Pursuant to the orders in the Writ Petition, once again Authorised Officer's order dated 04.12.2008 reiterated and recognised appellant as cultivating tenant. The said order alone came to be challenged. Therefore, the Writ Petition *per se* is not entertainable since the original order dated 22.01.1990 became final and remains unchallenged.



9. In view of the above facts and circumstances, the relief granted by the Writ Court in favour of the respondents is not in consonance with the facts established as well as the provisions of the Land Reforms Act and the Rules framed thereunder. Therefore, the impugned Writ Order dated 05.11.2019 in W.P.No.22316 of 2009 is set aside and the Writ Appeal stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(S.M.SUBRAMANIAM J.) (MOHAMMED SHAFFIQ J.)
25-10-2025

ASI

Index :Yes
Speaking Order : Yes
Internet :Yes

To

1.Murugesan S/o Kathirvel,
Pallor Village Puducherry

2.Kanagavalli
W/o Ranganathan,
Paloor Village, Puducherry.

3.The Secretary,
Government of Puducherry
Land Revenue Department
Puducherry.



4.The Commissioner Of Land Reforms
Government of Puducherry Land
Revenue Department, Puduherry.

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5.The Sub-collector
(Revenue – South)
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