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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 06.01.2025

PRONOUNCED ON : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)Nos.2094 and 2229 of 2015

and

M.P.(MD)Nos.2 and 2 of 2015

C.R.P.(MD)No.2094 of 2015:-

Tuticorin Alkali Chemicals and Fertilizers Limited,
“East Coast Centre”,
No.534, Anna Salai, Teynampet,
Chennai – 600 018. ... Petitioner

vs.

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

2.The Agricultural Land Tribunal,
(The District Revenue Officer),
Collectorate, Tuticorin-628 101.

3.The Assistant Commissioner (Land Reforms),
Thiruvananthapuram Road,
Murugankurichi, Tirunelveli – 627 001.



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4.Heavy Water Plant,
Department of Atomic Energy,
SPIC Nagar, Tuticorin – 628 005.

5.SPIC Electric Power Corporation (Private) Limited,
TPL House, No.3, Cenotaph Road,
Taynampet, Chennai – 600 018.

6.The Tamil Nadu Electricity Board Sub Station,
Muthiahpuram SPIC Nagar, Tuticorin – 628 005.

7.Southern Petrochemical Industries Corporation Limited,
SPIC Nagar, Muthiahpuram,
Tuticorin – 628 005.

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the order, dated 29.08.2014 in Appeal No.A1/112 of 2007 in Na.Ka.No.D4/3645/2013 on the file of the Agricultural Land Tribunal (District Revenue Officer), Tuticorin confirming the order, dated 20.04.2007 in Order Ref.A3/MR-1/264/S-TUT, on the file of the Assistant Commissioner (Land Reforms), Tirunelveli.

For Petitioner	:Mrs.A.L.Ganthimathi Senior Counsel for Mr.C.Mahadevan
For R1 to R3	:Mr.J.Ravindran Additional Advocate General assisted by Mr.K.S.Selvaganesan, Additional Government Pleader
For R4	:Mr.G.Rajaraman Central Govt. Standing Counsel
For R5 to R7	:No appearance



C.R.P.(MD)No.2229 of 2015:-

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Southern Petrochemical Industries Corporation Limited,
SPIC Nagar, Muthiahpuram,
Tuticorin – 628 005.

... Petitioner

vs.

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Office of the Land Commissioner and
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For Petitioner	:Mrs.A.L.Ganthimathi Senior Counsel for Mr.C.Mahadevan
For R1 to R3 and R7	:Mr.J.Ravindran Additional Advocate General assisted by Mr.K.S.Selvaganesan, Additional Government Pleader
For R5	:Mr.K.Maharajan Central Govt. Standing Counsel
For R4	:Tapal return
For R6	:No appearance

COMMON ORDER

The present Civil Revision Petitions have been filed challenging the impugned order passed in Appeal No.A1/112 of 2007 in Na.Ka.No.D4/3645/2013 on the file of the Agricultural Land Tribunal (District Revenue Officer), Tuticorin confirming the order, dated 20.04.2007 in Order Ref.A3/MR-1/264/S-TUT, on the file of the Assistant Commissioner (Land Reforms), Tirunelveli.



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2.The petitioner/Tuticorin Alkali Chemicals and Fertilizers Limited in C.R.P.(MD)No.2094 of 2015 is the fourth respondent in C.R.P.(MD)No.2229 of 2015 and the petitioner/M/s.Southern Petrochemical Industries Corporation Limited (hereinafter referred as “SPIC”) in C.R.P.(MD)No.2229 of 2019 is the 7th respondent in C.R.P.(MD)No.2094 of 2015.

The brief facts of the case is as follows:-

3.The Tamil Nadu Government in the year 1960 to uplift the agricultural activities and in order to promote and develop the agricultural activities including machineries and chemical and fertilizers, which are primary need and requirements for bring up the agricultural in the State of Tamil Nadu and in furtherance of the same, a fertilizer manufacturing complex was the need of the hour, constituted a High Level Committee. Thereafter, the Tamil Nadu Industrial Development Corporation Limited (TIDCO) undertook a joint promoters with SPIC at Tuticorin for supply of adequate fertilizers to the farmers.

4.They identified the manufacturing unit to be established at Tuticorin and it was originally decided for manufacturing Urea and Di-Ammonium Phosphate.



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The SPIC Limited produces the by-products of chemicals, which can be used for other industries. M/s.Tuticorin Alkali Chemicals and Fertilizers Limited was jointly promoted in the process of manufacturing soda ash and ammonium chloride by TIDCO and SPIC. In the process of establishing manufacturing unit, two villages, namely, Mullaikadu and Korampallam were identified. In the said village, the lands were earmarked for Tamil Nadu Electricity Board, Baba Atomic Research Centre-BARC (an undertaking unit of the Union Government) and for SPIC. On the aforesaid facts, the Revision Petitioner in C.R.P.(MD)No.2094 of 2015 in their grounds in para-6 a. and b., had stated the following details:

a.	Lands that were directly purchased by the 7 th respondent from private parties by the 7 th respondent from private parties and lands acquired under provisions of land acquisition Act and assigned and handed over to them	811.10 acres
b.	Lands in the nature of poromboke entrusted to the 7 th respondent pending assignment	421.21 acres
	Total	1232.51 acres

5.The lands, as stated above, were identified to an extent of 1232.51 acres in which 811.10 acres of lands were purchased by SPIC by way of private land acquisition/negotiation and the lands measuring to an extent of 421.21 acres of



lands, which are Government poramboke land, were entrusted with SPIC.

Pending assignment, this extent of 421.21 of lands was maintained by SPIC. The Revision Petitioner had contended that as the lands in both villages, namely Mullaikadu and Korampallam were converted as non-agricultural purpose as contemplated under Section 3 (22) of the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Act, 1961 (hereinafter referred to as “the Act”)

6.The SPIC in the year 1979 had transferred certain extent of lands to the Revision Petitioner in C.R.P.(MD)No.2094 of 2015, BARC, Heavy Water Plant (HWP) and SPIC Electric Power Corporation Limited (SEPC). In paragraph 10 of the grounds filed in support of C.R.P.(MD)No.2094 of 2015, the Revision Petitioner has stated as follows:

“10.However, pending reply from the Government and with the knowledge of the Government, the 7th respondent has transferred portion of their lands to the revision petitioner, HWP and TNEB for their industrial activities as follows:

a.	Land acquired by Govt. and handed over to SPIC	57.36 acres
b.	Government poramboke land assigned to SPIC	22.29 acres
c.	Directly purchased by SPIC from private parties	68.12 acres
	Total	147.77 acres”



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7.The SPIC had transferred 30.40 acres of lands to Tamil Nadu Alkali Chemicals Limited (TFL) on 11.03.1981 and the SPIC has made an application to the Government for exemption as per Section 37-A of the Act through their letter, dated 01.10.1988. The Government had issued G.O.Ms.No.454, dated 23.10.2002 giving exemption with respect to 663.33 acres of lands purchased by SPIC. Thereafter, the Government had issued notices, dated 31.01.2003, 13.02.2003, 07.06.2006 and 24.08.2006 regarding acquisition proceedings through the Assistant Commissioner of Land Reforms, Tirunelveli under Section 20 of the Act to take over the lands comprised to an extent of 72.59 acres of lands to the SPIC. By order, dated 20.04.2007, the Assistant Commissioner (Land Reforms), Tirunelveli, had passed the impugned order holding that the exemption cannot be made, as there is no provision to exempt or to ratify the land, which was held by SPIC and ordered that the land measuring to an extent of 72.59 acres shall stand transferred to the Government on the date of acquisition made by the Company. Challenging the same, an appeal was filed before the Agricultural Land Tribunal (DRO) and by order, dated 29.08.2014, the said appeal was dismissed, however, by way of an endorsement, the first respondent has directed the SPIC to file a revision before the High Court as per Section 83 of the Act. Challenging the order



passed by the second respondent, the present Revision Petitions are filed.

8.From the narration of facts, it could be seen that SPIC had sold 30.40 acres of lands to the Revision Petitioner in C.R.P(MD)No.2094 of 2015 and the SPIC itself is the petitioner in C.R.P.(MD)No.2229 of 2015. In the impugned order passed by the original authority, dated 20.04.2007 vide proceedings in A3/MR-I/264/S/TUT, a permission was granted to the SPIC as per Section 37-A of the Act by giving a ceiling limit above the Act measuring to an extent of 598.86 acres of lands in Mullaikadu and Korampallam at Tuticorin for a period of ten years vide G.O.Ms.No.454, Revenue (LR-II(2)) Department, dated 23.10.2002. An extent of 1232.51 acres of lands were earmarked and out of which, 421.41 acres of lands were Government poramboke lands and in the said lands, SPIC was in occupation.

9.The SPIC has transferred 36.25 acres of lands to the Revision Petitioner in C.R.P.(MD)No.2094 of 2015; 11.87 acres lands to Heavy Water Project and 20 acres of lands to TNEB; in total 68.12 acres of lands were transferred to the other Firms and the remaining portion of lands is 663.33 acres. 60 acres of lands were



not covered under the ceiling limit and the actual area, which was covered under the ceiling is 603.33 acres. The Government order had explained that there is no provision under Section 37-A of the Act to regularise or ratify the lands, which were alienated/transferred to other establishments. As such, a total extent of 72.59 acres of surplus lands from the holdings of SPIC are excluded under Section 37-A of the Act. By the impugned order passed by the Original authority, the details of the lands which were not given exemption and as per the village accounts were extracted, which are as follows:

Sl. No.	Name of Village	S.No.	Extent	Classification	Structures, if any
1.	Mullaikadu-I	415/3	2.33	Dry	T.N.E.B. Power Station and Officer's residence
		416/A 1	6.37	"	
		417/1	7.54	"	
			3.76	"	
			20.00		
		225/3	2.50	Dry	T.N.Alkalic Chemicals plant and building
		435/2A pt	15.02	"	
		436/1 pt	7.64	"	
		437/3	5.56	"	



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		438/1	2.18	"	
			32.90	"	
		240 pt	2.08	Dry	Heavy Water Project and building
		432/2 pt	3.45	"	
		433 pt	0.50	"	
		435/2A pt	1.85	"	
		436/1 pt	0.12	"	
		444 pt	1.84	"	
		241	2.03	"	
			11.87		
		259	4.47		Vacant site for the storage or raw materials for fertilizer industry.
	Koralmpallam-II	367/1C	1.39		Tamil Nadu Alkalice and Chemicals Limited plant and buildings
		367/3C	1.96		
			3.35		
		Grant Total	72.59 acres		

10.A notice, dated 03.01.2003 was issued to the SPIC as contemplated under Section 20 of the Act calling for the SPIC to produce documents on 08.01.2003. The SPIC vide their letter, dated 08.01.2003 had informed that an extent of 4.47 acres of lands has been transferred to M/s.SPIC Electronic Power



Corporation Limited and hence, 4.47 acres of lands may be excluded under the possession granted under Section 37 of the Act. Another notice was issued to the SPIC, dated 03.02.2003 calling upon an enquiry to be held on 07.03.2003. The SPIC had issued a letter on 07.03.2003 seeking time for furnishing documents and thereafter, notices were issued on 07.06.2006 and 24.08.2006. A representative, by name Mr.C.Arunachalam, P.R.O., of the SPIC had participated in the enquiry before the Assistant Commissioner (Land Reforms) and a statement was recorded stating that an extent of 68.12 acres of lands were under the possession of the sister concern of SPIC namely, Tuticorin Alkali Chemicals Limited, who is the Revision Petitioner in C.R.P.(MD)No.2094 of 2015.

11.The SPIC had requested vide their letter, dated 29.06.2006 to ratify the lands measuring to an extent of 72.59 acres of lands, which were already handed over to the other establishment. The request made by the SPIC was not ratified in view of Section 37-A of the Act, as there is no power to alienate or to ratify the ceiling limit. Section 37-A of the Act is extracted hereunder:

“37A. Industrial or commercial undertaking to apply to Government for permission to hold excess land.
- [(1) If any industrial or commercial undertaking desires to acquire any land in excess of the ceiling area or desires to hold land acquired in



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excess of the ceiling area, it shall make an application to the Government for permission to acquire such land or for permission to hold such acquired land as the case may be. Every such application shall be in writing and contain such particulars as may be prescribed:

Provided that an application for permission to hold such acquired land shall be made within such period as may be prescribed.]

Explanation. - In this section, "industrial or commercial undertaking" means any industrial or commercial undertaking (other than a co-operative society) which bona fide carries on any industrial or commercial operation.

(2) The Government may grant the permission for the whole or part of the land specified in the application, subject to such conditions as they deem fit or refuse to grant such permission. The order granting such permission shall contain the particulars of the land in respect of which such permission is granted.

(3) The Government shall, in deciding whether to grant or refuse the permission under sub-section (2), take into consideration the following factors, namely:-

(a) the nature of the industrial or commercial operation;

(b) whether the excess land is required for immediate use or use in future; and

(c) such other particulars as may be prescribed.

(4) Notwithstanding anything contained in this Act, no industrial or commercial undertaking which has been approved by the Government under clause (iv) of section 73 before the date of the publication of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Second Amendment Act 1972 (Tamil Nadu Act 20 of 1972) in the Tamil Nadu Government Gazette, shall be entitled to hold or acquire land in excess of the ceiling area unless such industrial or commercial undertaking has obtained the permission of the Government under this section in respect of such excess land.

(5) The Government may cancel the permission in respect of any land granted under this section on the breach of any condition specified by the Government."



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12.The original authority had passed an order transferring the lands to an extent of 72.59 acres of lands to the Government on the date of acquisition by the landlord/company. Aggrieved by the same, an appeal has been filed before the second respondent. The second respondent had passed the impugned order, dated 23.08.2014 that the action taken by the original authority is in consonance with the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Act, 1961, and no exemption could be granted as per Section 37-A of the Act and affirmed the order passed by the original authority and had passed a detailed order regarding the lands held by the respective establishments and their extent, survey numbers and the classification in the annexure. The said order is under challenge by Tuticorin Alkali Chemicals and Fertilizers Limited in C.R.P.(MD)No.2094 of 2015 and by Southern Petrochemical Industries Corporation Limited in C.R.P.(MD)No.2229 of 2019.

13.The learned Senior Counsel appearing for the Revision Petitioners contended that the lands were under the occupation of the Revision Petitioners and as the establishment is now functioning with the industrial activities and if any effect is given to the impugned order passed by the official respondents may



result in huge industrial set back. The learned Senior Counsel contended that no show cause notice was given to the Revision Petitioner in C.R.P.(MD)No.2094 of 2015 before passing the impugned order. The learned Senior Counsel drew the attention of this Court to the letter issued by the Government of Tamil Nadu in Letter Ms.No.1119, dated 13.08.1981 by the Industrial Department and had referred paragraph 3, which reads as follows:

“I am to state that no Government permission is necessary since the said lands were purchased by you company by Direct Negotiation.”

14.By referring the said letter, the learned Senior Counsel contended that the Government itself had stated that no Government permission is necessary for exemption and had pleaded that the impugned order is contrary to the Government letter.

15.*Per contra*, in reply to the grounds raised by the learned Senior Counsel appearing for the Revision Petitioner, Mr.J.Ravindran, learned Additional Advocate General appearing for the official respondents contended that as per



Section 37-A of the Act, exemption could not be granted, as contemplated under the Act and there may not be any estoppel to the Act, as claimed by the Revision Petitioner in Government Letter, dated 13.08.1981 in Letter Ms.No.1119 passed by the Industrial Department. The learned Additional Advocate General further submitted that the letter giving a right of no permission is required from the Government is contrary to the Act and such letter has no legal force.

16.It is seen from the records, that the SPIC had transferred certain extent of lands to the Revision Petitioner in C.R.P.(MD)No.2094 of 2015 without any authority or exemption from the Government. The act of usurping the powers and acting on their own and asking for exemption thereafter, by referring an Act is putting the cart before the horse and such kind of demand is *per se* illegal and the Revision Petitioners had acted without any source of power to make a claim and seeking an exemption as per Section 37-A of the Act by referring a letter of the Government. It is settled law that cannot be an estoppel against the Act.

16.A.The Revision Petitioner/Tuticorin Alkali Chemicals and Fertilizers Limited had not demonstrated the prejudice, in view of non serving the show



cause notice.

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17.The Revision Petitioner/SPIC in C.R.P.(MD)No.2229 of 2015, had enclosed a copy of the sale deed executed by SPIC in favour of the Revision Petitioner in C.R.P.(MD)No.2094 of 2015, which has been duly registered as Doc.No.1685/1981 before the Sub Registrar Officer, Tuticorin. The recitals in the sale deed refers to the owners as several persons and a reflection of mortgage with Life Insurance Corporation of India on 08.02.1974 for certain financial assistance, which has no significance, as the entire lands were not covered under Section 37-A of the At. The claim and right over the property in S.Nos.435/2 (part) to an extent of 16.92 acres, S.No.436(Part) to an extent of 4.47 acres, S.No. 437 (Part) to an extent of 6.61 acres, S.No.438 (Part) to an extent of 2.40 acres, in total 30.40 acres in Mullaikadu Village, has no significance, as these lands were not exempted as per Section 37-A of the Act. In the absence of any exemption accorded by the Government with regard to the ceiling, the sale deed assumes no significance and attaches no legal sanctity.



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18. The Revision Petitioner's claim that the industrial activities and the establishments in connection with the agro-industry is need of the hour and any interference made by this Court will affect the on-going industry. This argument cannot be acted and relied upon, as from their own admission in their grounds in paragraph No.6 in C.R.P.(MD)No.2094 of 2015, they have asserted that 1232.51 acres of lands were entrusted to the SPIC. The admission made by the Revision Petitioner makes it clear that the Revision Petitioner has least respect with regard to the holding of the lands without any legal right or sanction of the Government. When the Revision Petitioner had absolutely floated the laws, now they cannot make an argument, which has no legal force and when the petitioners have least respect for the law of the land. The act of SPIC having in possession of 421.21 acres of land without any sanction of the Government by way of exemption under consideration, their act itself shows that they are brazen enough to hold the Government lands and establish the industry without any right under the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Act, 1961, and without any sanction of law.



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19.The Revision Petitioner had established the industry in the Government lands, where the Revision Petitioner have no lawful right, cannot now plead that the established industry will suffer, if any adverse orders are passed. It is to be noted that the Revision Petitioners are not lay man or illiterate or ignorant of law, but they are well aware of the consequences of establishing their industries in the Government lands, which are classified as Government poramboke and it is not an exempted land under the Tamil Nadu Land Reforms (Fixation of Ceiling on land) Act, 1961.

20.When the Revision Petitioner had not obtained any exemption as per Section 37-A of the Act and the impugned order passed by the original authority confirmed by the appellate authority is absolute in accordance with law.

21.The impugned order was passed on 20.04.2007, however, the property is held by the Revision Petitioners without any sanction of law and such holdings is absolutely illegal and the said land has to be retrieved by the Government forthwith.



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22. In view of the discussion made above, the impugned orders, dated 29.08.2014 and 20.04.2007 are confirmed and the Civil Revision Petitions are dismissed and the official respondents are directed to retrieve and resume the lands forthwith. No costs. Consequently, connected miscellaneous petitions are closed.

31.01.2025

Internet	: Yes/No
NCC	: Yes/No
Index	: Yes/No

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N.SENTHILKUMAR, J.

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