(2011) 06 MAD CK 0334

In the Madras High Court

Case No : Writ Petition No. 8143 of 2004 and C.M.P. No. 14276 of 2003

M. Gunachandran — APPELLANT

Vs

Authorised Officer and Assistant Commissioner (Land Reforms) and Principal Land Commissioner — RESPONDENT

Date of Decision : 07-06-2011

Acts Referred:
Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 10(1), 10(5), 12, 18(1), 3(22)

Citation : (2011) 06 MAD CK 0334

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : N.A. Nissar Ahmed, for the Appellant; M. Dhandapani, Spl. G.P. for R1 and R2, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—The Petitioner has filed the Special Revision Petition u/s 83 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (for short Act) before the Tamil Nadu Land Reforms Special Appellate Tribunal, challenging an order dated 11.12.2000 passed by the second Respondent Land Commissioner. The said petition was not numbered.

2. In view of the abolition of the Tribunal, the matter stood transferred to this Court and was renumbered as CRP No. 1942 of 2003. However, a learned Judge of this Court opined that no Civil Revision Petition will lie as the officers whose orders under challenge were not a Court but only statutory authorities. Therefore, the CRP was converted into writ petition and notice was ordered.

3. The facts leading to the case are as follows:

The Petitioner is a resident of Govindapuram Village. He held agricultural lands to an extent of 70.55 Ordinary Acres equivalent to 23.152 Std. Acres as on 15.02.1970, the date of commencement of the Tamil Nadu Land Reforms (FCL)

Act, 58/61, as amended by Tamil Nadu Land Reforms (RCL) Act 17/70 (for short Act). A draft statement u/s 10(1) was published in the Government Gazette on 30.03.1977, proposing to declare an extent of 32.61 Ordinary Acres equivalent to 8.152 Std. Acres as surplus. The same was served on the Petitioner on 01.07.1977. He filed an objection on 05.08.1977 with a delay. Since there was a delay in filing the objection, the same was not considered and no orders were passed u/s 10(5) of the Act. Final Statement u/s 12 and notification u/s 18(1) of the Act was published in the Government Gazette on 20.12.1978.

4. Against the notification u/s 18(1), the Petitioner filed a revision petition before the Land Commissioner. The Land Commissioner in his proceedings in R.P. No. 247 of 1979, dated 04.01.1980 dismissed the revision petition as time barred. Aggrieved by the same, the Petitioner preferred a writ petition being W.P. No. 3986 of 1980. This Court by an order dated 08.03.1982 allowed the revision and set aside the order of the Land Commissioner and remitted the matter to be dealt with on merits. The land owner filed a revision petition once again before the Land Commissioner and after hearing the Petitioner, dismissed the revision petition on merits in R.P. No. 187 of 1987 dated 28.03.1988.

5. As against the said order of the Land Commissioner, the Petitioner again filed a writ petition before this Court in W.P. No. 4756 of 1988. The said case was transferred to the Special Appellate Tribunal on its constitution and was re numbered as TRP. No. 415 of 1991. The TRP was disposed by an order dated 15.11.1994. The Tribunal in its order had observed as follows:

We do not consider that the order of the Land Commissioner in Point No. 1 for exclusion u/s 3(22) suffers from any error and on the other point namely converting ordinary acre into standard acres based on Explanation IV to Section 3(40) the law laid down by the Special Appellate Tribunal in TRP. 414/91 will apply'' (which is a similar case relating to his brother Jayachandran)

6. In view of the disposal of the TRP, final Statement was published u/s 12 and notification u/s 18(1) were ordered to be cancelled. The Authorised Officer, the first Respondent was directed to re-calculate the holdings of the land owner by applying Explanation IV to Section 3(40) of the Act in respect of dry lands are concerned. The Petitioner filed a review petition before the Tribunal, seeking for exclusion of the land u/s 3(22) of the Act. The Tribunal set aside a portion of the earlier finding in TRP. No. 415/91 and directed the Assistant Commissioner, Erode to re-examine the issue after giving a copy of the inspection report to the owner. Accordingly, after putting the landowner on notice, the lands were inspected by the Assistant Commissioner on 29.06.1996 alongwith the Special Revenue Inspector, Dharapuram, the Sub-Inspector of Survey, Dharapuram and the Village Administrative Officer concerned. The inspection report was also given to the Petitioner. After excluding an extent of 3.03 Ordinary Acres u/s 3(22) of the Act, a revised order was passed on 12.11.1996, declaring an extent of 28.70 Ordinary Acres equivalent to 7.175 Standard acres as surplus. Necessary amendments to the final statement u/s 12 of the Act and modification u/s 18(c)

of the Act was published in the Government Gazette on 08.10.1997 and 06.01.1999 respectively.

7. Once again the Petitioner has filed revision before the Authority. The ground taken by the Petitioner was that the Petitioner''s lands were wet lands was not supported by any findings and they are not getting irrigation from any Ayacut since the lands were assessed under the ''Karythihyal Theervai'' and it is only a notional assessment. The authority held that from the records, it was found that the lands were classified as dry lands in Revenue Accounts. As per the report of the Assistant Commissioner, these lands have come under Amaravathi Reservoir Project Ayacut. As per the Explanation IV to Section 3(40) of the Land Reforms Act, the lands irrigated from Government source of irrigation for one crop will be considered equivalent to one acre of wet land assessed to land revenue at the rate of Rs. 4/- above but below Rs. 6/- per acre. The assessed lands are to be calculated at the ratio of 7:4 u/s 3(40) of the Land Reforms Act. Since the lands in question were notified under Amaravathi Reservoir Project, the ratio adopted by the Assistant Commissioner was in order. With this view, the revision petition was rejected.

8. The Petitioner contended that the Petitioner''s brother one Jayachandran''s land was in the tail end of the irrigation sources and it was classified as dry land. It was contended that the Petitioner''s land are similar in nature and adjacent to his brother''s land and therefore, the Respondent ought to have classified and recalculated on par with the lands of the brother. The entries in the Adangal were approximate and hence in calculating the standard acres, proper procedure was not followed.

9. However, the Petitioner cannot have a luxury on several grounds of litigation on the same issue. The second Respondent Commissioner has given correct reasons. It is immaterial whether the Petitioner''s brother''s land was classified as dry land or not. These facts were not brought before Assistant Commissioner or before the Revisional Authority and for the first time, cannot be raised in the form of an additional affidavit. Even otherwise, the findings that the Petitioner''s land were covered by Amaravathi Reservoir Project itself is sufficient and proper ratio has been adopted in converting the dry land into wet land.

10. In the light of the above, the impugned order does not suffer from any infirmity or illegality. Hence, the writ petition stands dismissed. However, there will be no order as to costs. Consequently, connected miscellaneous petition is closed.