IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2010

CORAM:

THE HONOURABLE MR.JUSTICE K.CHANDRU

W.P.No.11561 of 2004

Director of Land Reforms
Chepauk, Madras -5. ... Petitioner

vs

1.Assistant Commissioner,
Land Reforms,Erode.

2.K.A.Senapathi Gounder (Deceased)

3.K.S.Arujunan
4.K.S.Nallthambi
5.Sukumari Subbaiyan
6.Punithavathi
7.Dhanalakshmi
8.K.S.Venugopal
9.Thilagavathi Varatharajan ...Respondents
(Impleaded as per orders in
M.P.No.151/96 dated 26.09.96)

PRAYER:-Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified mandamus, to exercise the suo motu powers of revision vested under Section 82 of the Act, set aside the incorrect orders dated 28.02.1977 of the first respondent and to give directions as to pass correct order as per law.

For R1 : Mr.M.Dhandapani,Spl.G.P.

O R D E R

This writ petition arises out of the proceedings initiated by the Director of Land Reforms, Chepauk, Chennai-5 purporting under Section 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 (for short SAT).

2. The petitioner wanted the suo motu power of the Tribunal to be invoked in challenging the order of the Authorised Officer (Land Reforms) Erode under the proceedings 28.02.1977. The Director of Land Reforms requested the Tribunal to exercise their suo motu power of revision under Section 82 of the Act and set aside the order passed by the Authorised Officer referred to above. The said petition was taken on file as S.R.P.No.25 of 1998 before the Tribunal.

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3. In view of the abolition of the Tribunal, the matter stood transferred to this Court. This Court directed such matters to be numbered as writ petitions. Accordingly, the matter was numbered as W.P.No.11561 of 2004 and ordered notice. Inspite of ordering notice, no steps were taken to serve the contesting respondents. The writ petition is yet to be served on R3 to R9 who are the beneficiaries and who are impleaded by the Tribunal in M.P.No.151 of 1996 dated 26.09.1996. The writ petition is liable to be rejected on the short ground that none of the benaficiaries who will be vitally affected by entertainment of the writ petition have not been served. In the absence of such parties before this Court, this Court cannot adjudicate the writ patition.

4. Even otherwise a reference to Section 83 of the Act shows that though a suo motu power has been vested on the SAT but that has been circumscribed by the three proviso provided therein. Infact Section 83(2) clearly says that no order prejudicial to any person shall be passed under Sub-Section (1), unless such person has been given an opportunity of making his representations. In the first proviso to Section 83(1), it is made clear that the SAT can exercise the power within such period as may be prescribed and the Tribunal can also admit an application after the expiry of prescribed period if it is satisfied that the party concerned has sufficient cause.

5. Under Section 26(5) of the Tamil Nadu Land Reforms (Special Appellate Tribunal) Rules, a revision will have to be presented within 90 days from the date of the proceedings though second proviso to Section 83 gives power to the Tribunal to condone the delay to receive the revision beyond the statutory period.

6. In the present case, the revision has been filed only on 13.07.1995 and received by the Tribunal on 10.10.1995. There is no tangible explanation for receiving the application after 18 years. Therefore, in the absence of the contesting respondents being served and there is no tangible reasons for condoning the delay (even assuming that this Court can exercise such power), this Court is not inclined to entertain the said writ petition. Hence, the writ petition stands dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

The Assistant Commissioner,
Land Reforms,Erode.

+ 1 CC to the Government Pleader SR NO 47489

W.P.No.11561 of 2004

SGL(CO)
SRA(13/07/2010)

1) Service of notice on the
Contesting respdts is essential.
2) Suo motu power can not be
exercised without any tangible
reason for condoning the delay
in filing revision

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