

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Thursday the sixteenth day of November
One Thousand Nine Hundred and Seventy Eight

Present : The Honourable Mr. Justice : Ismail

Civil Revision Petition No.3428 of 1976

M/s. Kasturi Estates (P) Ltd.,
201A. Mount Road, Madras - 2
(Appellant)

... Petitioner

-Vs-

The Authorised Officer,
(Land Reforms) Kancheepuram
(Respondent)

... Respondent

Petitioner under section 83 of the Tamil Nadu Land Reforms Act No.58 of 1961 praying the High Court to revise the Decree of the Court of the Land Tribunal (Sub Court) Chengleput dated 19.7.1976 and passed in C.M.A.No.18 of 1976.

ORDER: This petition coming on for hearing on this day upon perusing the petition the orders of the lower court and the record in the case and upon hearing the arguments of Mr.T.S. Rangarajan Advocate for the petitioner and of Mr.K.Govindarajan for Additional Government Pleader on behalf of the Respondent the court made the following order:

This is a petition under section 83 of the Tamil Nadu Land Reforms Act, 1961, to revise the order of the Land Tribunal, Chingleput, dated 19.7.1976 passed in C.M.A.no.18/1976. The only question that was urged before me in the Civil Revision Petition was that the lands in the present case which are in Vandalur and Kilambakkam were not agricultural lands coming within the scope of Land Reforms Act at all. The Act does not

define the word 'agricultural land' though it defines the expression agriculture in section 3(1) and 'land' in section 3(22) of the Act. Section 3(22) of the Act defines 'land' as meaning 'agricultural land' that is to say, land which is used or capable of being used for agricultural purposes or purposes subservient thereto and includes forest land, pasture land, plantation and tope, but does not include house site or land used exclusively for non agricultural purposes. It is not necessary for the purpose of this case to refer to the definition of the term 'agricultural' contained in section 3(1) of the Act. The learned counsel for the petitioner repeatedly contended before me that the officers of the Government themselves have inspected the land and prepared a report stating that the land in question was waste and ploughed up here and there and there were trees standing only in a few places, and that the report would establish that the land in the present case cannot be said to be agricultural land or land capable of being cultivated. The learned counsel for the petitioner further contended that the Tribunal relied upon the description of the land in the Government account as 'punja' and the mere description of the land as 'punja' the Government account will not decisively decide the character of the land and the character of the land has to be ascertained with reference to the potentialities for its being used as agricultural land. In my opinion, having regard to the fact of this case, there is absolutely no substance whatever in this contention. In this case, at one stage the petitioner itself claimed the entire land as exempted under section 3(22) or section 73 of the Act. I have already extracted the definition of land contained in Section 3(22) and section 73(vii) deals with exemption of the land converted on or before the 1st day of July 1959, into orchards or topes or arecanut gardens, whether or not such lands are continuous or scattered. Consequently even though this claim for exemption was not

pressed before the Tribunal, the case of the petition was that the lands in question shall constitute orchards or topes or arecanut gardens. This claim itself will show that the lands were cultivable lands and were capable of cultivation and it could not be said that the lands will not fall within the scope of the definition of 'land' contained in the Act. I am not resting my conclusion only on this claim of the petitioner which was not subsequently pursued. The authorized officer in this case points out in his order.

"In this connection, my predecessor visited the lands on 17.9.1975 and found that there is not case for exemption either under section 3(22) or 73 of the Act. I also visited the village and inspected the lands in Kilambakkam village of 9.12.1975. During the course of my inspection it is said that there is no tope or orchard in any of the survey numbers. There are some scattered mango trees, athi trees and other trees, and shrubs of wild growth, here and there and that too in small survey numbers. The trees are all young and within 5 to 7 years of age. They are scattered here and there and they are not reared with any particular care. Hence the request of the Secretary, M/s. Kasturi Estates Private Limited, Madras-2 cannot be complied with."

Estates private Limited, Madras –

In fact the learned counsel for the petitioner referred only to the visits and inspection of the officers and from the visits and inspection of the officers, as I pointed out already, there is nothing to show that the land was not capable of being cultivated. The Tribunal itself, in its order, referring

to the claim put forward by the petitioner observed in paragraph 7 thereof.

“What the learned counsel for the appellant would seriously urge is that the lands involved in this appeal are not capable of being used for agricultural purposes and, therefore, do not come under the purview of the act, and therefore, the Authorised Officer is wrong in declaration portion of the lands belonging to the Appellant as surplus. The learned counsel for the appellant took me through the notes of local inspection made by the Authorised officer on 9.12.1976 and made points reference to the fact that the authorized officer found on ground that almost all the lands were lying waste and that this would mean that these lands were incapable of cultivation and, therefore, those lands should have been excluded in reckoning the ceiling area. As already noticed, according to the appellants the lands are rocky, barren land. For one thing, there are not materials to show that the lands are rocky and as such incapable of cultivation. It is admitted that the lands have been classified as punja lands which means that there lands which could be brought under the plough. It may be that those lands have no actual source of irrigation, but that would not render the lands as non agricultural lands. The very classification of the Revenue Authorities would show that the lands are capable of cultivation. We cannot hold otherwise on the ground that M/s. Seethakathi Trust have put up buildings on the lands purchased by them and that there are factories around the lands involved in the appeal. If the owners of the agricultural lands put their lands to any non agricultural use, because that brings more profit to them, that would not render the lands any the less agricultural lands. I am convinced that the classification of the lands as punja is sufficient to hold that they are capable of being used for

agricultural purposes. There are no materials to hold otherwise. It is significant to note that in the communication sent by the Secretary to the appellant, he sought exemption for the lands on the ground that they were topes and orchards. Therefore, on a consideration of the materials on record I think that there is no justification to hold that the lands are not agricultural lands."

I have already extracted the definition of the word 'land' contained in section 3(22) of the Act and that definition does not require actual cultivation of the land, but all that is required is that the land must be capable of being used for agricultural purposes. The learned counsel for the petitioner was not able to draw my attention to any materials on record which will conclusively and expressly show that the lands were not capable for being used for agricultural purposes. All that the learned counsel for the petitioner contended was that simply because the land was lying waste, no inference can be drawn from that fact that the lands are capable of being used for agricultural purposes. In my opinion, this arguments misleading. The lands have been classified as punja lands and the land have been lying waste. The fact that the lands were lying waste cannot lead to the inference that they are by nature incapable of being used for agricultural purposes. Not a scrap of paper or any other materials have been produced either before the authorized officer or before the Tribunal to show that the lands were not capable of being used for agricultural purposes. On the other hand, the notes of inspection of the authorized officer would clearly show that the lands come within the scope of definition of 'land' as contained in section 3(22) of the Act. Under these circumstances, no case whatever has been made out for interfering with the conclusions of the authorities below.

The civil revision petition fails and is therefore dismissed.
There will be no order as to costs.

Sd/- K.V. Ramachandran
24.11.1978
Assistant Registrar A.S.

/ True Copy /

for Director of Land Reforms and
Ex-officio Joint Commissioner.

/ True Typed Copy /