

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Friday, the Twentyfourth day of February
One thousand nine hundred and seventy eight.

PRESENT:

The Honourable Mr. Justice Nairnar Sundaram

Civil Revision Petition No.1098 of 1975.

M Palaniswamy .. Petitioner (Petitioner)

Vs

The Authorised Officer ... Respondent (Respondent)
(Land Reforms), Erode.

Petition under Section 115 of Act V of 1908 read with Section 83 of Tamil Nadu Land Reforms Act 58/61 praying the High Court to revise the order of the Court of the Land Tribunal (Prl. Subordinate Judge), Coimbatore, dated 10th February 1975 and made in L.T.A. No.263 of 1974, (Ref.No.37P/MRI/17/70 on the file of the Authorised Officer, Land Reforms, Erode).

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. K. Sarva-
bhauman, Advocate for the petitioner and Mr. K. Govindarajan,
Advocate for the Additional Government Pleader on behalf of the
Respondent, the Court made the following:--

ORDER:

The unsuccessful land owner under the Tamil Nadu Land Reforms Act 58 of 1961 hereinafter referred to as the Act is the petitioner in this revision. Proceedings were taken by the Authorised Officer (Land Reforms), Erode under the Act against the landowner and in the course of the enquiry the landowner sought to exclude certain lands covered by two agreements of sale dated 4th July 1969 and 5th August 1969. The Authorised Officer did not countenance this plea of the land owner on the ground that the agreements of sale were not produced before him and in any event such agreements of sale may not have any legal consequence affecting the title to the property. Apart from this, the landowner also put-forth a submission that if the agreements of sale are not to be upheld and the lands covered by those documents are not to be

excluded from the holdings of the landowner, the said extents may be declared as surplus, and the landowner be permitted to retain the other extents not covered by the agreements of sale, so far as the latter submission is concerned. I find that the Authorised Officer has not given any reason for ignoring this submission of the landowner. I find that the Authorised Officer was content to make only the following observations in this connection in the circumstances above and according to latest instructions the surplus land offered by the landowner covered under sale agreement cannot be accepted. The landowner aggrieved by the orders of the Authorised Officer filed an appeal L.T.A. No.263 of 1974, which was heard and disposed of by the Land Tribunal (Principal Subordinate Judge), Coimbatore who confirmed the order of the Authorised Officer and dismissed the said appeal. The present revision is preferred as against the order of the Land Tribunal.

Sri Sarvabhauman, learned counsel for the petitioner is not in a position to point out any infirmity in the orders of the forums below with reference to the two agreements of sale. The learned counsel would refer to a decree said to have been obtained on the basis of one of the agreements of sale. But, as pointed out by the Land Tribunal this decree has been obtained long after the conclusion of the proceedings before the Authorised Officer. In this view, no weight could be attached to such a decree and the Land Tribunal rightly declined to countenance the claim of the land owner on the basis of this decree.

The learned Counsel next urges that in any event the plea of the landowner with reference to the retention of the lands and declaration of the surplus of the lands has not been considered by the Authorised Officer and this point has been raised before the Land Tribunal in ground No.8 in the memo. of grounds of appeal in the appeal before the Land Tribunal. I find that this point has not been adverted to by the Land Tribunal. To consider this question it would be just and proper that the third parties, agreement holders, under the two agreements of sale must also be heard and their objections considered by the Authorised Officer. The disposal of this question by the Authorised Officer, is not satisfactory and does not confirm to the principles laid down by the Act in this behalf. As pointed out by me this aspect has not been considered at all by the Land Tribunal. But it would be

proper that this matter is being considered by the Authorised Officer himself so that this question can be decided comprehensively in the presence of all the parties concerned. While confirming the orders of the forums below with regard to the two agreements of sale put-forth by the landowner and the other objection raised by the landowner, I remit the matter back to the Authorised Officer (Land Reforms), Erode only for the purpose of considering the plea of the land owner with reference to the retention of the lands within the ceiling area and the declaration of the surplus area over and above the ceiling area. The Authorised Officer will consider this question after issuing notice to the agreement holders under the concerned agreements of sale and after hearing their objections and considering all the materials that may be placed by the parties before him in deciding this question afresh and finalise the proceedings. This revision is allowed only for the above limited purpose, but, there will no order as to costs.

(Sd.) C.R. GOPALAKRISHNAN,
Assistant Registrar.

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