

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Monday the Twentyseventh day of March
One Thousand nine hundred and seventy eight

PRESENT:

Honourable Mr. Justice: Suryamurthy

Civil Revision Petition No.1594 of 1975

Ponnuswami Gounder

.. Petitioner/Appellant

Vs

The Authorised Officer,
Land Reforms, Erode.

.. Respondent

Petition under Section 83 of the Tamil Nadu Land Reforms (FCL) Act 58/61 as amended by Act 17/70, praying the High Court to revise the order of the Land Tribunal, Coimbatore, dated 27th January 1975 and made in LTA.244/74 (Ref.No.29P/MRI/17/70, Authorised Officer (L.Ref.), Erode.

JUDGMENT: This petition coming on for hearing on Friday, the 17th day of March 1978 and on this day the Court delivered the following judgment:

This is a civil revision petition against the judgment of the learned Land Tribunal-cum-Principal Subordinate Judge, Coimbatore, dismissing the appeal preferred against the order of the Authorised Officer (L.Ref.), Erode. The Authorised Officer originally declared as 5.33 standard acres as surplus lands of Ponnuswamy Gounder, the revision petitioner, on the ground that in spite of notice, the revision petitioner did not file any objection. However, he would appear to have filed his objection on 14th May 1973, i.e. before the passing of the order. Therefore, the Authorised Officer rectified the mistake and considered the objections of the revision petitioner.

The first contention of the revision petitioner before the Authorised Officer (Land Reforms) and this Court is that he has entered into an agreement of sale with one Doraiswami on 18th, July 1969 and received a sum of Rs.9,000/- as advance and the lands covered by the agreement have to be excluded from the lands held by him for the purpose of fixing the ceiling. This agreement was not produced before the Authorised Officer. It was produced only before the Land Tribunal, but taken back. The revision

petitioner cannot be in possession of this agreement which appears to have been fabricated on very old stamp papers. One stamp paper would appear to have been purchased on 30th November 1969 and the other two stamp papers on 2nd January 1958. Evidently taking advantage of the existence of the old stamp papers, the alleged agreement has been fabricated. If the agreement is true, Doraiswami, and not the revision petitioner, should be in possession of the agreement. Therefore, this conclusion of the learned Land Tribunal that this is not a genuine document is correct and is confirmed.

The next contention of the learned counsel for the revision petitioner is that Doraiswami, the party to the agreement, ought to have been given notice. Since we find that the agreement is not true, and that it has been fabricated for the purpose of these proceedings, it is not necessary to give any such notice.

Another contention of the revision petitioner is that an extent of 3 acres had been purchased in the name of his minor son under a deed dated 1st May 1971 and this extent should be excluded for the purpose of computation of his holding. This sale deed has not been produced by the revision petitioner. The burden is on the revision petitioner to prove that an extent of 3 acres of land has been purchased in the name of his son. The very fact that the son, in whose name the property has been purchased is only a minor, is sufficient to show that the property has been purchased from out of the income of the joint family properties and is, therefore, an accretion to the joint family. Even otherwise, the son being a member of the family, the extent owned by him will have to be treated as an extent owned by the family, and the ceiling area in the case of every family consisting of more than five members can only be 15 standard acres together with an additional 5 standard acres for every member of the family in excess of five.

The very fact that the petitioner himself says that the lands have been purchased in the name of the minor son would show that the minor was only a benamidar for the revision petitioner himself. In the circumstances, there is no substance in this contention that the lands purchased in the name of the minor should be excluded.

The contention that the petitioner is entitled to further exemption has not been argued before me. The learned Land Tribunal agreed with the Authorised Officer regarding the extent to which the revision petitioner was entitled for exemption under Section 3(22) of the Tamil Nadu Land Reforms (FCL) Act. This is a finding of fact, which I see no reason to disturb.

Consequently the civil revision petition is dismissed with costs.

(Sd.) Assistant Registrar,
18th May 1978.

/True copy/