

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Friday, the Third day of November
One Thousand Nine Hundred and Seventy Eight

PRESENT:

The Honourable Mr. JUSTICE GOKULAKRISHNAN
Civil Revision Petition No. 184 of 1976

Sanga Pillai

Petitioner (Nil)

Vs.

1. The State of Tamil Nadu
represented by the
District Collector
Tiruchirappalli
2. The Authorised Officer
(Land Reforms)
Tiruchirappalli
3. G. Balakrishnadass, Trustee

Respondents and
Appellant.

Petition under Article 227 of the Constitution of India
praying the High Court to revise the order of the Court of the
Principal Subordinate Judge, Tiruchirappalli dated 3rd July 1970
and made in C.M.A. 87 of 1975 preferred against the order of the
Authorised Officer (Land Reforms) Tiruchirappalli in M.R.I./G/79
Kli Act, 17 of 1970.

ORDER: This petition coming on for hearing on this day upon
hearing the arguments of Mr. K. Srinivasan, Advocate for the
petitioner and of Mr. K. Govindarajan, Government Pleader on
behalf of the Respondents 1 and 2 and Mr. K.C. Rajappa, Advocate
for the respondent No. 3 the Court made the following order:--

This revision petition was filled under Article 227 of the
Constitution of India before its amendment, questioning the
authority of the remand order passed by the Land Tribunal
(Principal Subordinate Judge) Tiruchirappalli in C.M.A. No. 87
of 1974. The facts of the case are:

The facts of the case are: The petitioner herein is an
assignee of the surplus lands acquired by the Government and the
said assignment was made in his favour on 19th September 1973.
The Authorised Officer (Land Reforms) Pudukkottai on 19th
September 1973 after carefully examining the claims of the

applicants before he allotted to the petitioner herein 2.02 acres of land in Survey field No. 71/3 as per rule 8(4) of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1965 as amended in G.O. Ms. No. 1870, dated 8th September 1969. Before such an assignment, the Authorised Officer declared the surplus land of the third respondent herein as 15 A.S. The third respondent was given an opportunity as the trustee of the Govindadass Private Family Trust to give particulars specifying his desire regarding the lands to be retained by the trust even though time was taken, the third respondent herein did not furnish the particulars as called for. Hence the Authorised Officer (Land Reforms) Tiruchirappalli passed an order under section 10(3) of the Tamil Nadu Act, 58 of 1961, specifying the land to be retained by the land owner within his ceiling area and stated that the lands specified by him in his order will be notified as surplus lands. It is the case of the petitioner that subsequent to the said order there was an order under section 10(5) section 12 and finally under section 18 of the Act. In pursuance of such steps taken by the Government, the petitioner as stated above, got the lands allotted on 19th September 1973. The third respondent, as the trustee of Govindadass Private Family Trust, preferred an appeal to the Land Tribunal, Tiruchirappalli against the order of the Authorised Officer dated 28th April 1972, contending that the Authorised Officer had not considered the objection statement filed by him and that he should be given option to declare the extent of lands to be retained by him. This appeal was filed under section 78 of the Act. Sub Sections (1) and (2) of Section 78 of the Act read as follows:—

"Section 78(1)"

Against any decision of the Authorised Officer under Section 9(2)(b), 10(3)(4) and (5), 16(3)(a)(iii) 20, 22, 50(4), 51(1), (2), 52, 61(3)(b) or 102(2)(b), the Government may within thirty days from the date of decision and any person aggrieved by such decision may within sixty days from the date of such decision appeal to the Land Tribunal.

"Section 78(2)"

The Land Tribunal may admit an appeal presented after the expiration of the period mentioned in sub-section (1) but not exceeding thirty days, if it is satisfied that the party concerned had sufficient cause for not presenting it within the said period.

The Tribunal, after observing "in the appeal the appellant (third respondent herein) has made an endorsement that he is willing to surrender some other lands as surplus instead of the lands chosen by the Authorised Officer as surplus; then once the appellant is found to own more than the ceiling area, he should be given option to specify the lands to be retained by him and the surplus land which he desired to surrender, hence it is just and proper to remand the case to the lower court to give opportunity to the appellant to specify the land to be taken as surplus from his holding", allowed the appeal by setting aside the order of the Authorised Officer and remanded the matter back to the Authorised Officer for fresh disposal.

It is seen from the records that the appeal was filed after a delay of more than one year and an application was also filed before the Land Tribunal, to excuse the delay. From the facts of the case, it is also clear that the appeal was filed only in December 1973 while the assignment in favour of the petitioner herein was made as early as on 19th September 1973 and the order of the Authorised Officer is dated 28th April 1972. Hence it is clear from the facts of the case that any realignment of the land will definitely affect the interests of the petitioner who has got a specific land assigned in his favour as per the provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling of Land) Act and the Rules framed thereunder. Mr. Srinivasan, learned counsel appearing on behalf of the petitioner, apart from submitting that the petitioner is an interested party to agitate the matter by questioning the order of remand made by the Land Tribunal, contended that the Land Tribunal had absolutely no jurisdiction, to entertain the appeal under section 78 of the Act filed by the third respondent herein since it was delayed by more than a year. Section 78 of the Act is clear as regards the limitation for preferring such an appeal. Admittedly, the appeal was filed beyond the period of limitation fixed by section 78 and the same has been conceded by Mr. Rajappa, learned counsel appearing for the third respondent herein. Mr. Rajappa, learned counsel, contends that in as much as the Government is the aggrieved party as against the remand order passed by the tribunal the petitioner cannot be heard to say that the order of remand is invalid. According to the learned

counsel, the petitioner can have an appeal say when the matter is taken up by the Authorised Officer in pursuance of the remand order for the re-alignment of the standard acres to be retained by land owner and the distribution of the excess lands in his lands. I do not think such an argument is available to the third respondent herein, especially when the petitioner, who is interested in this matter, as stated above, questions the jurisdictions of the Tribunal to entertain the appeal which has vitally affected the assignment made in his favour. The chances of getting the very same land to be assigned to the petitioner cannot be a ground to ignore the contention of the petitioner when the question that jurisdiction of the Tribunal to entertain the appeal, filed by the third respondent beyond the period of limitation. In my view, the Tribunal, without even considering the limitations imposed upon it by Section 78 of the Act, has arrogated to itself the powers not vested in it. The excusing of the delay in preferring the appeal and ultimately passing an order on the said appeal is in the teeth of section 78 of the said Act is an error apparent on the face of the record. All these points have been raised in the ground of revision filed by the petitioner under article 227 of the Constitution of India. It has been specifically stated by the petitioner that the Land Tribunal overlooked that the appeal before it was filed beyond the period of limitation prescribed under the Madras Land Reforms Act and the Tribunal had no jurisdiction to excuse the delay exceeding thirty days, that the Land Tribunal failed to note that the third respondent did not even file a revision petition against the final statement under section 12 which was made on 24th August 1972, that the Land Tribunal overlooked that the publication under section 18(3) was made in February 1973 and further proceedings pursuant to the final notification was taken in April, 1973 itself that the appeal filed by the third respondent against the order under section 10(3) is clearly beyond the period of limitation contemplated under section 78 of the Land Reforms Act that the Land Tribunal ought to have taken into consideration that after the final notification under section 18(3) proceedings under the Madras Land Reforms (Disposal of Surplus Lands) Rules, 1965 were taken and completed and the surplus lands were assigned to various individuals in accordance with the said Rules and that the Tribunal overlooked that the

assignment order was made in favour of the petitioner on 19th September 1973 and the petitioner had also deposited the instalments due as per the order of the assignments long before the filing of the appeal by the land owner before the Land Tribunal.

Thus taking all these points raised by the petitioner and also finding that the Tribunal has absolutely no power to entertain the appeal filed beyond the period of limitation, I am of the view that the order of the Tribunal must be set aside. Accordingly the Civil Revision Petition is allowed and the order of the Land Tribunal is set aside, with the result that the order of the Authorised Officer over which the appeal was filed is retained.

There will be no order as to costs in this revision petition.

K.V. RAMACHANDRAN
Assistant Registrar (K.S.)

(True copy)