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IN THE HIGH COURT OF JUDICATURE AT MADRAS
Wednesday, the Twenty-ninth day of March
One thousand nine hundred and seventy-eight

Present:

Hon'ble Mr. Justice Suryamurthy

C.R.P.No. 3103 of 1976	..	Petitioner (Petitioner)
Dr. V.R. Srinivasan Rao	..	Petitioner (Petitioner)

Vs.

1. Rangappa Gounder		
2. The Authorised Officer, Land Reforms, Coimbatore	..	Respondent (Respondent)

Petition under Section 83 of the Act 58 of 1961 praying the High Court to revise the order of the Court of the Land Tribunal, and Principal Subordinate Judge, Coimbatore, dated 18th August 1975 and made L.T.A.No. 286/74 (Ref. 8159/73/J, dated 13th May 1974, Authorised Officer, Land Reforms, Coimbatore).

This petition coming on for hearing on Tuesday, the 14th day of March 1978, Thursday the 16th day of March 1978 and on this day, upon perusing the petition, the orders of Courts below and the record in the case and upon hearing the arguments of Mr. V. Natarajan, Advocate for the petitioner and Mr. M. Venkatachalapathy, Advocate for the 1st respondent and of Mrs. Gomathi for the Additional Government Pleader, on behalf of the 2nd respondent, the court made the following:-

ORDER

This is a Civil Revision Petition against the judgment of the Land Tribunal (Principal Subordinate Judge), Coimbatore modifying the order of the Authorised Officer and declaring that the surplus land in the enjoyment of the tenant is only 0.18 standard acres. For coming to this conclusion, the Land Tribunal has relied on an unregistered partition deed filed by the tenant. This partition deed was rejected by the Authorised Officer and rightly too as it was an unregistered partition deed. The

Tribunal has also excluded the extent belonging to the wife, namely an extent of 1.775 standard acres. This extent and an equal extent would appear to have been purchased by the tenant and his wife jointly and therefore the Land Tribunal held that the property purchased by the wife, namely, her minority should be treated as her own and he excluded from the holding of the tenant.

Both the Land Tribunal and the Authorised Officer have ignored the provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (hereinafter referred to as the Act).

For the purpose of computing the holdings of a family under Section 5 of the Act, the family consisting of the wife and her husband should be treated as a unit. Section 3(34) defines a 'person' as including a family also. Section 3(14) defines a 'family' in relation to a person as meaning the person, the wife or husband, as the case may be, of such person and his or her (i) minor son and unmarried daughters, and (ii) minor grandsons and unmarried daughters in the male line, whose father and mother are dead.

Thus, in assessing the ceiling area of the first respondent and his wife as owners, they should be treated as a family and hence as a person. In the circumstances, the extent owned by the wife should be added to the extent owned by the husband, namely the first respondent herein.

However, the extent owned by the major sons will have to be excluded because they do not come within the meaning of the word 'family' used in the Act. In the circumstances the extent of 4/5th share in the ancestral properties shall be excluded in computing the lands owned by the first respondent. The ancestral properties are said to comprise an extent of 1.935 standard acres. In this, the first respondent herein is entitled to .387 acres. His sons are not entitled to any share in the self acquired properties. Therefore, he and his wife are together entitled to the entire 3.53 standard acres purchased by them. Thus, the first respondent is entitled to hold 3.937 standard acres as a tenant. The surplus would, therefore, come to .870 standard acres. This conclusion can be come to only if the figures given are correct and accepted by both parties and if all

the four sons of the tenant, namely, the first respondent in this revision petition, are majors, as now contended by the counsel for the respondents. There is no evidence to this effect.

Therefore, the judgment of the Land Tribunal is set aside and the matter is remanded for fresh disposal in the light of the observations made above if all the four sons of the first respondent are majors, and otherwise, treating the minor son or sons as members of a family within the meaning of the Act.

The Civil Revision Petition is allowed to the extent indicated above, and the matter is remanded for fresh disposal to the Land Tribunal.

(Sd.) C.R. Gopalakrishnan,
Assistant Registrar (A.S.)

/True copy/