

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Twenty First day of November
One Thousand Nine Hundred and Seventy Eight

PRESENT

The Honourable Mr. JUSTICE SATHIADEV

Writ Petition No.1496 of 1972

K.S. Baskaran

Petitioner

The State of Tamil Nadu
represented by the Authorised
Officer (Land Reforms)
Thanjavur

Respondent

This petition is filed to quash the order made by the Authorised Officer, Land Reforms, Thanjavur on 13th May 1972 holding that the petitioner is having a surplus extent of 26.94 acres under the provisions of Tamil Nadu Act, 58 of 1961. This main point taken is that the Authorised Officer has passed this order without notice to him and without giving the reasonable opportunity that is contemplated under section 10(5) of the said Act.

The acounter affidavit refers to the extent held by the petitioner and after working out exemptions claimed by him under section 73 of the said Act, the surplus was determined at 26.94 standard acres on this a Form No. 4 notice was issued to the petitioner on 16th July 1965 and whereupon he asked for more time, which was refused and a draft statement was prepared under section 10(1) of the said Act. In the meanwhile, he preferred Writ Petition No. 2650 of 1965 which was dismissed on 18th July 1966 with a direction to give an opportunity to the petitioner. Accordingly he was called upon to give his objection which he filed on 29th April 1967 and he was heard in detail and orders were passed on 21st July 1967 under section 9(2)(b) of the Act. The petitioner again filed Writ Petition No. 33 of 1968, challenging the validity of the Act itself, and it was dismissed

on 1st November 1969. Thereafter, a printed copy of the draft statement with a notice inviting his objections was sent to the petitioner by registered post on 18th February 1970 and it was returned stating therein that he has left the town without instructions. Hence, Form No. 7 was served by affixture on the permanent residence of the petitioner at Kumbakonam on 22nd April 1970. After the time limit of 60 days expired, no objection, having been taken by the petitioner an order was passed under section 10(5) of the Act on 27th June 1970. Thereafter it was followed up by a final statement which was published on 10th November 1971. Even this statement when sought to be served was refused by the petitioner. Therefore the procedure of affixture had to be again resorted to. Ultimately, after the conclusion of the proceedings, possession of the surplus lands was taken on 29th June 1972 itself.

Therefore, it is patent that the petitioner is bent upon preventing service of notices on him and he has intended upon delaying the completion of the proceedings. He not only evades service, but when confronted with the situation of service of notice, he refuses to receive the same. In such circumstances, the mode of service contemplated under Rule 8 of the Land Reforms Rules, 1962 had been followed and service had been effected by affixture. Even after the publication of the notification under section 18(1) in the Gazette he had not preferred any objection. He is a person who had come to this court twice, and it cannot be said that he is unaware of what should be done, when such notifications are published. When a land-holder evades service of notices, the authorities are not expected to wait for indefinite period and it is open to them to follow the modes of services contemplated under Rule 8 of the said rules and in this case, the proper procedure having been followed it cannot be said that the authorities have failed to serve notices on the petitioner or failed to give reasonable opportunity to him and in particular under section 10(5) of the said Act. Therefore, this writ petition is dismissed. No costs.

K.P. MATHAVAN

Assistant Registrar (P)

(True copy)