

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Thursday, the Nineteenth day of October
One Thousand Nine Hundred and Seventy Eight

PRESENT:

The Hon'ble Mr. Justice RAMANUJAM

Civil Revision Petition No. 2285 of 1976

Kumaragurupara Adityan

.. Petitioner/Petitioner
Land holderVs.The Authorised Officer, Land
Reforms, Koilpatti... Respondent/(Officer/
Respondent)

Petition under Section 83 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act read with Section 115 C.P.C., praying the High Court to revise the order of the court of the Subordinate Judge (Land Tribunal), Tuticorin, dated 26th June 1976 and made in C.M.A.L.T. No. 21 of 1975 (MRI 58/K TDK) dated 3rd October 1974 on the file of the Authorised Officer, Land Reforms, Koilpatti.

ORDER:

This petition coming on for hearing on this day upon perusing the petition, the orders of the lower court and their cord in the case and upon hearing the arguments of Mr. R. Mohan, Advocate for the Petitioner and of Mr. K. Venkataswami, Additional Government Pleader on behalf of the Respondent, the court made the following order:-

This revision is directed against the order of the Land Tribunal constituted under Tamil Nadu Land Reforms Act, 1961, dismissing the petitioner's appeal under section 73 of the Act against an order passed by the Authorised Officer under Section 10(5) of the Act.

After due enquiry under sections 8 and 9 of the Act, the Authorised Officer issued a notice to the petitioner calling for his objections to the draft statement under section 10(1) of the Act. The petitioner did not file any objections. The Authorised Officer, therefore, proceeded with the final statement under section 10(5) of the Act. As against the final statement, the petitioner filed an appeal before the Land Tribunal mainly questioning the inclusion in his holding of certain items of lands which according to him are eligible for exemption under the Act. The Land Tribunal, however, held that since the petitioner did not claim exemption under section 73 of the Act at any stage before the finalisation of the statement under section 10(5) he cannot be permitted to raise the question of exemption. In that view the Tribunal dismissed the petitioner's appeal.

Before me, learned counsel for the petitioner raises two-fold contention. Firstly, it is said the Authorised Officer had acted contrary to the provisions of section 10(5) in that he did not give a personal hearing to the petitioner who is affected by the final orders passed under that section by the Authorised Officer. Secondly, it is contended that in any event the Tribunal should have remitted the matter to the Authorised Officer to consider the petitioner's claim for exemption in respect of some of the lands.

As regards the first contention I am of the view that the petitioner was not entitled to any personal hearing before the Authorised Officer. That section contemplates after the publication of the draft statement, a notice to all persons concerned who in the opinion of the Authorised Officer are interested in the land to which the draft statement relates and calling for their objections to the draft statement within 30 days from the date of the service of the notice. If the objections are filed the Authorised Officer has to duly consider those objections and give a personal hearing to the objector. In this case, admittedly the petitioner was served with a notice under section 10(5) of the Act calling upon the petitioner to file his objections to the draft statement and the petitioner did not file any objections. Since the petitioner did not file any objections nor did he raise any protest against the draft statement the Authorised Officer proceeded to pass final order

under that section. The reasonable opportunity of being heard contemplated under that section is only with reference to the objector and not with reference to a person who did not file objections though notice has been given to him. The Authorised Officer need not hear a person who had no objection to make and the opportunity of being heard should therefore be restricted to persons who have filed their objections to the draft statement. Therefore, there is no substance in the contention of the learned counsel for the petitioner that the petitioner not having been given an opportunity of being heard by the Authorised Officer, his order passed under section 10(5) of the Act cannot be sustained in law.

Coming to the second contention of the learned counsel, I am of the view that it has to share the same fate. Admittedly in this case, the petitioner did not raise the plea of exemption certain lands at the stage of the proceedings under section 9 of the Act. It is only when the Authorised Officer conducts an enquiry under section 9 to determine the extent of the land for the purpose of finding the ceiling area the question of particular lands being exempted from the Act will have to be considered. At the stage of the proceedings under section 10 of the Act things that are to be considered are as to what are the lands to be retained within one's ceiling area and what are the lands to be declared as surplus. Admittedly the petitioner filed his statement before the authorised officer in the proceedings under section 9. Therein, the petitioner has not claimed any exemption in respect of any of the lands held by him. After filing the statement at the later stage of the enquiry, he did not personally appear and take part in the proceedings. The petitioner having kept in quiet without raising the plea of exemption at the relevant stage he cannot now at a later stage of the proceedings call upon the Tribunal to go into the question of exemption. My view, therefore, is that the Tribunal is justified in not going into the question of exemption at this stage. Civil Revision Petition is dismissed.

No costs.

(Sd.) K.V. RAMACHANDRAN,
Assistant Registrar (A.S.)

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