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IN THE HIGH COURT OF JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)

Wednesday, the Seventh day of February
One Thousand Nine Hundred and Seventy Nine

PRESENT:

The Honourable Mr. Justice MOHAN

Writ Petition Nos. 253, 2577 to 2579 of 1977

Resheed	..	Petitioner in W.P. No. 253/77
Halimabibi	..	Petitioner in W.P. No. 2577/77
Mohamed Sali Sahib	..	Petitioner in W.P. No. 2578/77
1. Jalima Bibi		
2. Mohamed Sali Sahib for himself and also as heir of his mother Julaika Bibi		
3. Jainullabuddian Sahib		
4. Abdul Rashid		
5. Noor Mohammed		
6. Rahamathunnissa Bibi		
7. Sebeetha Bibi		

Petitioner in W.P. No. 2579/77

Vs.

1. The Authorised Officer (Land Reforms), Cuddalore having his office at Venugopalapuram Cuddalore-1.	
2. United Commercial Bank impleaded as per order of Court dated 23rd March 1978 in W.M.P. No. 1425 to 1427/78 and 1478/78 respectively.	

Respondents.

Petitions under Article 226 of the Constitution of India, praying that in circumstances stated therein and in the respective affidavits filed herewith the High Court will be pleased to issue a Writ of Certiorari calling for the records in R.P. No. F1/186/76 (in W.P. No. 253/77, R.P. No. 183/76 in W.P. No. 2577/ and 2578/77) and R.P. No. 187/76 (in W.P. No. 2579/77 dated 29th December 1976 and quash the same.

ORDER:

These writ petitions coming on for hearing on this day upon perusing the petition and the affidavit filed in support thereof the order of the High Court, dated 31st January 1977 and 11th August 1977 and made herein and the counter and reply affidavits filed herein and the records relating the order in as stated in the petition prayer dated on the file of respondent No.I comprised in the return of respondent to the writ made by the High Court, and upon hearing the arguments of Mr. T.V. Balakrishnan, Advocate for the Petitioner in each of the petitions and Mr. C. Chinnaswami for the Government Pleader on behalf of the respondent No.1 in all the petitions, and of V. Sridevan, Advocate for the respondent No.II in all the petitions, Court made the following order:-

W.P. No.253 of 1977:

An extent of 83.53 ordinary acres equivalent to 58.50 standard acres was declared as surplus from the holdings of One Victor Jagannatha Mudaliar of Pondicherry as per notification under Section 18(1) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. On 23rd February 1966 and the lands were taken possession of by the Government on 12th August 1973. As the land-owner and other interested persons had not preferred their claim in time for the payment of compensation, the Authorised Officer (Land Reforms), Cuddalore, after due enquiry, passed orders on 4th November 1975 determining the compensation. Against this, the writ petitioner and five others filed appeals before the Land Tribunal, Cuddalore, which directed them to present the appeals before the proper forum. Then the petitioner filed a revision petition before the Land Commissioner. The petitioner contended before the Land Commissioner that an extent of 6.46 acres out of 6.23 acres in S. No.70/IA of Keelapattambakkam village has been purchased by him as per the sale deed dated 21st August 1969 from one Rathinamary, daughter of the land-owner, to whom the land had been given by the landowner by gift on 1st April 1960. That sale no doubt will do hit by Section 23 of the Act. Such a gift in favour of an unmarried daughter of Christian family will not entitle the land-owner to claim exclusion of the lands from his holding as per Section 3(14) of the Act before it was amended by Act 17 of 1970. Hence, the Land Commissioner rejected the petition. It is against this rejection the petitioner preferred the Writ Petition for certiorari to quash the same.

What is now contended before me by Mr. T.V. Balakrishnan is that the revision petition before the Land Commissioner should be directed to be reconsidered in the light of the judgment of Ramanujam, J. in C.R.P. No.318 of 1968. As against this, the learned Government Pleader (S.A.) says that this is a case in which Section 23 is attracted that there are no bonafides in the sale and that, therefore, it will be void as it was done to defeat the provisions of the Act and secondly there is no question of applying the judgment in C.R.P. No.318 of 1968 which was rendered under a different circumstances to decide as to who is the person interested.

I have given my careful consideration to the facts of the case. In C.R.P. No.318 of 1968 Ramanujam, J., was dealing with the case wherein the petitioner purchased a portion of the property sought to be declared as surplus and the learned judge held that since he is a purchaser of the portion of the property sought to be declared as surplus, he is definitely a person, interest in the proceedings under section 10(5). The learned Judge held:

"Though the Authorised Officer is entitled to ignore the sale deed under Section 23 as having come into existence after the notified date, it is not possible to accept the view of the Tribunal that the petitioner is not an interested person. It is always open to the petitioner to say that the lands sold to him should be included within the ceiling limits of the owner as he purchased the property bonafided and parted with sale consideration. That opportunity the petitioner did not have before the persons concerned, the tenants, creditors and all other persons who in the opinion of the authorised officer, are interested in the land to which such draft statement relates together with a notice stating that any objection to the draft statement shall be preferred within 60 days from the date of service of such notice. As I am of the view that the petitioner is an interested person in the land sought to be declared as surplus, he should have been given notice under Section 10(5).

From the above it would be seen that the learned Judge dealt with the question of nor issuing notice to the petitioner therein who is an interested person. But in this case notice was given and in fact they preferred revision to the Land Commissioner and the petition was considered on merits. In such a case, there is no question of applying the above decision at all, nor can I accede to

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the request of the petitioner that in the final allotment the property in question may be so allotted to the original land-owner and then his sale may remain unaffected. The contention is too belated because, as already seen from the narration of facts, possession has been taken. Before the disbursement is made notice will be given to the United Commercial Bank, which is stated to have advanced some money on the lands which have been declared as surplus.

The petition is dismissed. There will be no order as to costs, In view of this, other petitions are also dismissed no costs.

(Sd.) K.P. MADHAVAN,
Assistant Registrar (A.S.).

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