

COPY OF

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Eleventh day of April
 One thousand nine hundred and seventy nine
 Present

The Honourable Mr. Justice Varadarajan

Writ Petition No.2602/75

Deivanayagi

.. Petitioner

Vs.

1. The Land Commissioner,

.. Respondents

Board of Revenue, Chepauk, Madras-5.

2. The District Revenue Officer, Thanjavur.

3. The Authorised Officer (Land Reforms),
Mayuram.

4. N. Karuppan.

Petition under Article 226 of the constitution of India
 praying that in the circumstances stated therein and in the
 affidavit filed therewith the High Court will be pleased to issue
 a writ of Certiorari calling for the records of the respondent
 No.1 in 'Board's/L.Dis. F3/3667/75 (Land Reforms), dated 4th
 February 1975 and quash made therein.

ORDER:

This writ petition 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 8th April 1975 and made herein,
 and the counter affidavit filed herein and the records in (Board's
 L.Dis. F3/3667/75 (Land Reforms), dated 4th February 1975 on the
 file of the respondent No.2 comprised in the return of the said
 records to the writ made by the High Court, and upon hearing the
 arguments of Mr. B. Rajagopalan, Advocate for the petitioner and
 of Mr. C. Chinnasamy for the Government Pleader on behalf of the
 Respondents 1 to 3 and the 4th respondent not appearing in person
 or by advocate to Court made the following order:-

This writ petition under Article 226 of the Constitution of
 India has been filed for the issue of a writ of certiorari
 quashing the order of the First respondent, the Land Commissioner,
 Board of Revenue, Madras, made in Board's L.Dis. F3/3667/75 (Land
 Reforms), dated 4th February 1975. Four items of lands, namely
 52/6--63.

79 cents in S.No.109/18, 2 cents in S.No.115/26, 25 cents in S.No.111/27 and 14 cents in S.No.112/7A at Sengalipuram Village in Nannilam Taluk, were taken over as surplus lands under Section 13(1) of the Land Reforms Act on 6th January 1973 as per declaration made on 12th December 1972. The Authorised Officer, Land Reforms, the third respondent had issued a notice in Form B on 15th February 1973 for assignment of these lands to other persons as per the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules 1965 five persons had applied in Form C for assignment of the Surplus lands. The Authorised Officer passed orders on 26th July 1973 assigning the lands to the 4th respondent as an ex-service-man. The petitioner, an ex-tenant of these lands, applied to the Authorised Officer, on 26th May 1972 some time before possession of the lands was taken over and long before applications were called for, and again, on 23rd August 1973 for assignment of these lands. The first application was rejected by the Authorised Officer, on the ground that it was not in proper form. The second application was rejected on the ground that the lands had already been assigned to the 4th respondent. The petitioner's appeal to the District Revenue Officer and revision to the Board of Revenue, the first Respondent, were rejected on the ground that the application has not been made in Form C.

Section 94(2) of the Land Reforms Act, 1961, lays down that in the disposal of the land acquired by the Government under this Act, the Government shall give preference to any person who was completely dispossessed of his holding, or whose extent of holding is reduced below three standard acres held by him partly as cultivating tenant and partly as owner or wholly as cultivating tenant by virtue of the provisions of this Act. Rule 7 of the Tamil Nadu Land Reforms (Disposal of Surplus Lands) Rules, 1965 lays down that applications for the assignment of surplus lands shall be in form C and shall be presented in person to the Authorised Officer within whose jurisdiction the land is situated or sent to him by registered post.

Admittedly, the application by the petitioner had not been made in Form C. It is on that ground that the Authorised Officer, the District Revenue Officer and the first respondent had rejected the petitioner's application. What is submitted by the learned

counsel for the petitioner is that the application made by the petitioner contains details required in form C. Such a contention was not raised before the authorities below and a copy of the application made by the petitioner on 26th May 1972 had not been made available fore the Authorised Officer, District Revenue Officer or the first respondent and it was not contended before any of them that the particulars furnished in that application are the same as these required in Form C. Therefore, it is not open to the petitioner to raise that contention for the first time before this court that all the particulars required in Form C. have been furnished by the petitioner by his application, dated 26th May 1972. Moreover, the requirement of rule 7 is mandatory. In these circumstances, there is no reason to interfere with the order sought to be quashed in this Writ Petition. The writ petition is accordingly dismissed. But, having regard to the fact that the petitioner is stated to be a poor agriculturist, the parties shall bear their respective costs.

(Sd.) K.P. Madhavan,
Assistant Registrar (P).

/True copy/