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IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

Thursday, the Sixteenth day of November
One Thousand Nine Hundred and Seventy-eight

PRESENT:

The Honourable Mr. Justice NATARAJAN

Writ Petition No. 3203 of 1976

K. Venkatachalam .. Petitioner

vs.

C. Ramamurthi,
Land Commissioner,
Board of Revenue (Land Reforms),
Chepauk, Madras-5. .. Respondent.

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 Land
Commissioner, Board of Revenue, Land Reforms, Madras-5 made in
F3 R.P. No.153/74 (L. Ref.) dated 3rd September 1974 and quashing
the same as illegal and without jurisdiction in so far as it
relates to the petitioner.

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 7th September 1976 and made
herein and the counter affidavit filed herein and the records
relating to the order in F3/R.P. No.153/74 (L.Ref.) dated 3rd
September 1974 on the file of the 2nd respondent herein comprised
in the return of the second respondent, to the writ made by the
High Court and upon hearing the arguments of Mr. R.G. Rajan,
Advocate for the petitioner of Mr. B. Rajagopalan, Advocate for
the first respondent and of Mr. C. Chinnasami for the Government

Pleader on behalf of the second respondent, the Court made the following order:-

The writ petition lies within a narrow compass. With regard to an extent of 4.06 acres of wet lands forming part of a total extent of 19.07 acres of wet lands taken over as surplus lands from the family holding of one S. Rajagopalan Odayar, there were 12 applicants for assignment. The petitioner and the first respondent were two among these applicants. After due enquiry the Authorised Officer (Land Reforms) accepted the case of the first respondent that he was a dispossessed cultivating tenant with reference to that land under Rule 5(1)(i) of the Disposal of Surplus Lands Rules and assigned the extent of 4.06 to him. Aggrieved by that order, the petitioner herein and another applicant, preferred an appeal to the District Revenue Officer, Thanjavur. By his order dated 29th April 1974 the said Officer set aside the order of assignment and remitted the matter to the Authorised Officer (Land Reforms) for fresh enquiry and consideration in the light of additional evidence that may be adduced by the parties. Aggrieved by the order of remand, the first respondent preferred a revision to the second respondent. The second respondent has not only set aside the order of remand, but also restored the original order of the Authorised Officer (L.Ref.). It is to quash the order of the second respondent, the petitioner has filed this petition and prayed for the issue of a writ of certiorari or any other appropriate writ order or direction.

Mr. R. C. Rajan learned counsel for the petitioner points out that under Rule 11 of the Tamil Nadu Land Reforms (Disposal of Surplus Land) Rules, 1966 (herein after referred to as the Rules) the Land Commissioner to writ the second respondent has got the power to examine the record of the District Revenue Officer in respect of any proceeding under the Rules, to satisfy himself to the regularity of such proceeding or correctness, legally or propriety of any decision or order passed thereon and if in any case it appears to the Land Commissioner that any such proceedings decision or order should be modified annulled, reversed or remitted for reconsideration he may pass orders accordingly, but such power did not extent to making an assessment of the evidence in the case of passing orders of the merits of

On a consideration of the matter, I find that the grievance of the petitioner is well-founded. The powers of the second respondent, sitting as a revisional authority, are no doubt wider than those conferred on courts under Section 115 of the Code of Civil Procedure. But even so those power cannot have the same amplitude as those conferred on an appellate authority under the rules, such being the case, when the second respondent found the remand and the direction to record further evidence was not called for, he should have merely set aside the order of the appellate authority and remitted the papers to the said authority for disposing of the appeal on its merits and on the basis of the evidence made available by the parties before the Authorised Officer (Land Reforms). The second respondent had transgressed his limits under the Rules in making an evaluation of the claims of the parties and holding that on the basis of the materials available in the case, the assignment of the land in favour of the first respondent, was unquestionable. In that view of the matter, the impugned order of the second respondent is set aside. In conformity with what is stated above, the direction to be given in this case is to remit the appeal to the appellate to authority for consideration on the merits of the case and disposal according to law. With this observation, the writ petition will stand allowed. There will be no order as to costs. Till the disposal of the appeal by the appellate authority the first respondent possession of the land will not be disturbed or interfered with.

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

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