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

Tuesday, the Eighth day of the April
One thousand Nine hundred and Eighty

PRESENT

The Hon'ble Mr. Justice Padmanabhan

WRIT PETITION No. 3310 of 1977

P. Pothi Reddiar Petitioner

Vs.

1. The Land Commissioner,
Board of Revenue (L.Ref.)
Chepauk, Madras-5.
2. The Authorised Officer (L.Ref.) ... Respondents
Ti runel veli.

Petitioner 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 1st respondent relating to the proceedings in F3/R.P.No.73/77 (L.Ref.), dated 22nd August 1977 and quash the same.

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 6th October 1977 and made therein, and the Counter Affidavits filed herein and the records relating to the order in F3/RP.No.73/77 (L.Ref.), dated 22nd August 1977 on the file of the 1st respondent and the connected records of the 2nd respondent comprised in the return of the respondents herein to the writ made by the High Court, and upon hearing the arguments of Mr. M. Velusamy, Advocate for the petitioner, and Mr. D. Krishnan, for the Government Pleader on behalf of the respondents, the Court made the following order:—

This writ petition has been filed by the petitioner Pothi Reddiar for the issue of a writ of Certiorari to quash the order

passed by the Land Commissioner, Board of Revenue, in his proceedings in F3/R.P.73/77 (L.Ref.), dated 22nd August 1977.

An extent of 149.54 acres in Pattana Maruthoor village was excluded under Section 3(22) by the Authorised Officer (Land Reforms), Koilpatti, while taking action in respect of the land of the petitioner under Tamil Nadu Land Reforms Act 17 of 1970 according to the petitioner, the entire extent of 149.54 acres was being used exclusively for growing fuel trees on 15th January 1970. He further stated that on 25th July 1962 he had leased out the entire extent to one Shankar and Company for converting these lands into Salt Pans. Since the lessees, Shankar and Company did not take any steps to convert these lands into salt pans, the petitioner took a release of the land from the lessesses and afterwards on 13th May 1969, the petitioner leased out the land to one Ponnurahiman for a term of 25 years for the purpose of conversion of these lands into salt pans and for the purpose of manufacturing of salt. It is further stated by him that on 25th July 1966. The Authorised Officer (Land Reforms) passed an order exempting the entire extent of 149.54 acres under Section 73(viii) of the Act on the ground that there were thick growth of fuel trees. While so, the Land Commissioner, Board of Revenue (Land Reforms), Madras initiated suo motu proceedings in revision. The Land Commissioner passed an order dated 22nd August 1977, which is impugned in this writ petition, stating that the petitioner is not entitled to exemption under Section 73(viii) of the Acts in respect of any portion of his holding. The Land Commissioner rested his order on two grounds. Firstly, the land had not been utilised actually for the purposes of salt pans. Secondly, when the Land Commissioner was met with the contention that eventhough the land had not been converted into salt pan, the lands were eligible to be exempted under Section 73(viii) of the Act on the ground that they were being used exclusively for growing fuel trees, the Land Commissioner found that in order to be eligible for exemption under Section 73(viii) of the Act, fuel trees should have been grown on the land with the help of human agency and the natural of fuel trees would not entitle the holder of the land for exemption under Section 73(viii) of the Act. Accordingly he directed the Authorised Officer to redetermine the holding after identifying the exact extent used for non-agri cultural purposes as on 15th February 1970.

Mr. Velusamy, for the petitioner has raised the following three contentions before me.

1. The Land Commissioner has no suo-motu powers of revision.
2. Assuming without admitting that the Land Commissioner has such powers, the power of the revision should be exercised within three years from the date of the order sought to be revised. In this case, as early on 25th July 1966 the Authorised Officer, Land Reforms has passed an order exempting the entire holding of the petitioner under Section 73(viii) of the Act, Consequently, the suo motu powers having been exercised by the Land Commissioner beyond the period of four years from the date of the order sought to be revised, the impugned order is liable to be quashed on the ground of limitation.

3. Section 73(viii) does not justify the interpretation put on it by the Land Commissioner. According to Mr. Velusamy, it is not necessary that the fuel trees should be consciously grown on the land by the landholder. If it was found that on 15th February 1970 there was growth of fuel trees on the land that would be sufficient to bring the holding within the exemption provided for in Section 73(viii) of the Act. As a further limb of this argument, learned counsel would submit that, in any event the Commissioner has not considered the question whether in this particular case, fuel trees have been consciously grown, nurtured and tended by the petitioner or they merely constituted natural vegetation without any effort on the part of the petitioner.

The first of the contentions of Mr. Velusamy has no merit. Section 82 of the Tamil Nadu Land Reforms Act, 1961 reads as follows:—

The Land Commissioner may call for and examine the record of any authorised officer in respect of any proceeding under Section 9(3), 12, 13, 14(1), 14(2), 17(3), 18(4), 50(5) or 50(9) or the record of any proceeding under Sub-Section (2) of Section 54 and in respect of any other proceeding under this Act not being a proceeding in respect of which a suit or an appeal to the Land Tribunal is provided by this Act to satisfy himself as to the regularity of such proceeding or the correctness, legality or propriety of any decision of order passed thereon, and in any case, it appears to the Land Commissioner that any such proceeding, decision or