

order should be modified, annulled, reversed or remitted for reconsideration he may pass orders accordingly. Provided that the Land Commissioner shall not pass any order prejudicial to any party unless he has been given a reasonable opportunity of being heard".

It clearly empowers the Land Commissioner to call for and examine the records of any authorised office in respect of any proceedings passed under the Sections specified in the Act. It is not disputed that the order passed by the Authorised Officer in this instant case comes within the Sections enumerated within Section 82 of the Act. A bare reading of the Section itself will be sufficient to negative the contention of Mr. Velusamy that Section 82 does not confer on the Land Commissioner the power of suo motu revision. This conclusion of mine is strengthened by Rule 62(2) of the Rules framed under the Act, which reads as follows:-

"The power of suo motu revision under Section 82 shall be exercised by the Land Commissioner within a period of three years from the date of the order, decision proceedings referred to in the said section."

I have therefore no hesitation in over-ruling the first of the contentions of Mr. Velusamy.

The second contention of Mr. Velusamy is based on limitation. For this purpose, Mr. Velusamy relies upon Rule 62(2) which has already been extracted above and which came into effect on 23rd March 1974. Mr. Velusamy is perfectly right in his submission that as per Rule 62(2) the Land Commissioner shall exercise suo motu power of revision conferred on him under Section 82 within three years from the date of the order, decision or proceedings referred to in that section. But the question for consideration is whether in this case, the impugned order is barred by limitation. Mr. Velusamy would contend that on 25th July 1966 the authorised office passed an order exempting the entire extent of 149.54 acres under Section 73(viii) of the Act. The impugned order having been passed long after three years from the date of the order and even three years beyond 23rd March 1974 on which date the Rule 62(2) came into force, the impugned order is barred by limitation. This argument, I am afraid, has equally to fall. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 was amended by Act 17 of 1970. Section 3(ii) states 'the date of commencement of this Act means the

15th day of February, 1970" Section 3(12) states that the date of publication means the date of publication of the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970 in the Fort St. George Gazette. After passing of the amended Act 17 of 1970, the Authorised Officer initiated proceedings determining the ceiling area of the petitioner's holding. After hearing the objection of the petitioners, the Authorised Officer passed an order on 26th June 1976, under which he again held that an extent of 149.54 acres was entitled to exemption under Section 73(viii) of the Act. The surplus land in the hands of the petitioner was fixed to be 0.40 standard acre, equivalent to 1.60 ordinary acres. As rightly pointed out by Mr. Krishnan, after the introduction of the amendment Act 17 of 1970, the Authorised Officer had to determine the holding in the light of the provisions of the amending Act. Further the amending Act itself stated that the relevant date would be 15th February 1970. Consequently, the order relied on by Mr. Velusamy had ceased to be of any effect. The only relevant order passed by the Authorised Officer after coming into force of the amended Act 17 of 1970, is the order dated 26th June 1976. The impugned order has been passed within three years from the date of this order. Hence there is no substance in the plea of limitation urged by Mr. Velusamy.

There is some force in the second limb of the last argument advanced by Mr. Velusamy. I do not agree with the interpretation sought to be put on Section 73(viii) by Mr. Velusamy. Section 73(viii) reads as follows:—

"Except as otherwise provided in sub-sections (2) and (3) of Section 5 and in Section 6, nothing contained in this Act shall apply to (viii)' and land used exclusively for growing fuel trees on 15th February 1970. Provided that such land shall be exempt only so long as such land is used for such purpose'.

A reading of the section leaves no doubt in my mind that to attract Section 73(viii) the land must have been deliberately and exclusively used by the landholder for growing fuel trees. In other words, as rightly pointed out by the Land Commissioner, the fuel trees should have been grown with the aid of human agency. The lands which are waste and on which we find natural growth of fuel trees and shrubs will not qualify for exemption under Section 73(viii) of the Act. I am not

persuaded to accept the argument of Mr. Velusamy that a particular land in which there is only a natural growth of fuel trees without the aid of human agency will be entitled to exemption under Section 73(viii) of the Act.

The second limb of Mr. Velusamy's last contention is that, as a matter of fact in this particular case, the petitioner has, of his own volition, grown fuel trees on the land. Learned Counsel referree to the fact that the petitioner has employed watchman for the purpose of nurturing, watering and tending the trees. He also referred to the further fact that the petitioner has a house for the purpose of residence of the watchman and for his own use on much occasions when he used to visit his land. The Land Commissioner has not referred to this question at all in the impugned order. I am satisfied that the petitioner should be given an opportunity to establish before the Authorised Officer, Land Reforms in the remanded enquiry that this total extent of 149.54 acres has been exclusively used by him for growing fuel trees on the lines on which Section 73(8) has been interpreted above. It is therefore made clear that while redetermining the exact of land in use for non-agricultural purpose, the authorised officer will go to the question whether the fuel trees on the property or holding of the petitioner were grown by him with human effort or constituted natural vegetation. The writ petition is ordered accordingly. There will be no order as to costs.

At the close of the judgment, Mr. Velusamy brought to my notice that in the notice issued by the Land Commissioner to the petitioner on 8th July 1977 it is stated that he proposed to revise the order dated 25th May 1976 when confronted with this position. Mr. Krishnan, learned Government Pleader made it clear that the only order that was sought to be revised is dated 26th June 1976 and that there was no such order dated 25th May 1976.

(Sd.) K.P. MADHAVAN,

Asst. Registrar (P)