

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

Tuesday, the Fifth day of December
One Thousand Nine Hundred and Seventy Eight

PRESENT

The Honourable Mr. JUSTICE SATHIADEV

Writ Petition No.4479 of 1973

Balakrishna Naidu Endowments
Kottur, Vedugachery, Nagapattinam Taluk
Thanjavur District
represented by its Trustee
S. Rangaramanujam Naidu.

Petitioner

Vs.

1. Union of India,
represented by the Secretary
Home Department
New Delhi.
2. The State of Madras
represented by the Secretary
to Government
Revenue Department, Fort St. George
Madras-9
3. The Authorised Officer
(Land Reforms)
Nagapattinam

Respondents

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 to Centiorari calling for the records of the Authorised
Officer (Land Reforms) Nagapattinam relating to MRI/17-K/NGT/A2
dated 10th July 1973 and quashing the same as illegal and without
jurisdiction.

ORDER: The 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 31st July 1973 and
made herein and the Counter affidavit filed herein and the
records relating to the order in MRI/17-K/NGT/A2, dated 10th
July 1973 on the file of third respondent herein comprised in the

return of respondents herein to the Writ made by the High Court and upon hearing the arguments of Mr. R.G. Rajan, Advocate for the Petitioner and of Mr. C. Chinnaswami for the Government Pleader on behalf of the Respondents 2 and 3 of Mr. V.N.R. Rao Senior Central Government Standing Counsel on behalf of the 1st respondent the Court made the following order:—

The point that has been taken at the forefront in this writ petition is that the provisions of Tamil Nadu Act 39 of 1972 being illusory, it deserves to be struck down under Article 14 and 19 of the Constitution of India, and that the said Act is not included in the 9th Schedule and therefore it can be challenged. Subsequent to the filing of this Writ Petition by the 40th amendment to the constitution, this Act has been included in the 9th Schedule.

2. Apart from this point, the petitioner had also canvassed other points which related to applicability of the said Act to the properties held by the petitioner and he has filed this writ petition even at the stage of Section 10(1) of Tamil Nadu Act 58 of 1961. Though it is claimed that the opportunity that was available to him under section 9(2)(b) was not given, since the petitioner will now be enabled to file all those objections even at the stage when section 10(5) enquiry is held, it is directed that the Authorised Officer shall give every reasonable opportunity to the petitioner to register whatever objections, including the nature and character of the lands they want to take against their lands being included and it is only thereafter, the Authorised Officer shall further proceed with the matter and conclude the proceedings. In this view, though the writ petition stands dismissed without costs the Authorised Officer is directed to proceed further with the matter as above directed.

K.P. MADHAVAN
Assistant Registrar (P)

(True copy)

to a person who holds such service inam lands. The decisions referred to above support this view in toto and as such the inclusion of 44.70 acres of land for the purpose of calculating the ceiling area of the petitioner's holding, is not correct.

In these circumstances, the revision is allowed holding that the 44.70 acres of land enjoyed by the petitioner as service holder, should not be taken into account for the purpose of fixing the ceiling area of the petitioner's holding. There will be no orders as to costs.

(Sd.) K.V. RAMACHANDRAN,
Assistant Registrar.

/True copy/