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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Twenty Second day of November
One thousand nine hundred and seventy seven.

PRESENT

The Honourable Mr. Justice Ramanujam

Writ Petition No. 4843 of 1973

R. Narayanasamy

.. Petitioner

Vs.

1. The Authorised Officer (Land Reforms), .. Respondents
Nagapattinam.

2. The Land Commissioner (Land Reforms),
Board of Revenue, Chepauk, Madras-5.

...

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 Commis-
sioner, Land Reforms, Board of Revenue, Madras-5 in R.P.No.
C2/9/73 (Land Reforms), dated 25th July 1973 confirming the order
of the Authorised Officer (Land Reforms), Nagapattinam and quash
the order, dated 25th July 1973.

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 17th August 1973 and made herein
and the Counter affidavits filed herein and the records relating
to the order in R.P.No.C2/9/1973 (Land Reforms), dated 25th July
1973 on the file of the 2nd respondent and comprised in the return
of the respondents herein to the Writ made by the High Court, and
upon hearing the arguments of Mr. K. Raman, Advocate for the
petitioner and of Mr. C. Chinnasami for the Government Pleader
on behalf of the respondents, the Court made the following orders.

The petitioner was holding lands in excess of the ceiling
limit of 15 standard acres as on 15th February 1970 and therefore,
proceedings were initiated under the Tamil Nadu Land Reforms
(Reduction of Ceiling on Land) Act No.17 of 1970 by the first
respondent and the petitioner was called upon to submit a return

in Form No.2 by serving a notice on him in Form No.3 on 19th February 1972. The petitioner did not respond to the said notice. The Authorised Officer after gathering particulars and after making enquiry issued a notice in Form No.4 to the petitioner which was served on him on 29th March 1972. Even for this the petitioner did not respond and make any representation. Thereafter a draft statement was prepared under Section 10(1) by the first respondent. A copy of the draft statement and notice in Form No.7 were served on the petitioner on 13th June 1972. Even then the petitioner did not file any objections under Section 10(5) of the Act. Thereafter there was publication of the final statement under Section 12, as also the notification under Section 18(1) declaring a surplus of 10-56 ordinary acres equivalent to 8-30 standard acres. The notifications were duly published in the Gazette and after the notification under Section 18(1), the excess land has been taken possession of by the Government on 22nd December 1972. After taking possession notice in form B was published in the village on 15th January 1973 calling for applications for allotment of the surplus lands. It was at that stage the petitioner filed a revision petition before the Land Commissioner contending that at no stage of the proceedings under the Act he was given any notice, that he was completely unaware of the proceedings under the Act and therefore, the proceedings should be started deponovo after giving due notice to him. He also stated that even assuming that there is a surplus of 8.30 standard acres, he may be given the option to retain that land within his ceiling area by offering some other land of equal extent. The Land Commissioner considered the petitioners contentions with reference to the records and found that the petitioner's statement that he was not served with any notice at any stage of the proceedings was not correct and that at every stage the petitioner was served with notice but that he did not file any objection before the authorities as regards the determination of the ceiling area and as regards the taking over of the surplus lands under section 18. In this view, the revision petition filed by the petitioner has been dismissed. The petitioner has challenged the order of the Land Commissioner in this writ petition practically reiterating the same contentions as were urged before him. The main allegation of the petitioner is that

he was not served with any notice at any stage of the proceedings and therefore, he could not make his representations on the question of fixation of the ceiling area. From the Counter-affidavit filed by the respondents as well as the files produced before the Court it is seen that the petitioner was served at every stage of the proceedings and it is the petitioner who had been very reticent in the matter. Therefore, there is no justification in the complaint made by the petitioner that he had no opportunity to put forward his objections at any stage. Since it is the petitioner who had not taken advantage of the various notices issued by the Authorised Officer, he is to blame himself for the situation he finds himself in. Therefore the proceedings cannot be taken to be vitiated.

The learned counsel for the petitioner then contends that in spite of the decision of the authorities declaring 8.30 standard acres as surplus, he may even now be given an opportunity to retain those lands which are in the middle of his holding on his giving alternate lands of equal extent. The question is whether the petitioner's requisition can be considered at this late stage. As already stated, even at the stage of Section 10(5) the petitioner was asked to file his objections. At that stage the petitioner could have come forward with the option to retain the lands which are now taken over as surplus and offered some other lands of equal extent of his choice. But that opportunity has been lost as the petitioner did not file any objection at that stage. Now there is a notification under Section 18(1) in this case and as a result of the said notification, the property has vested in the Government. Applications have also been called for allotment of the lands as per the provisions of the Act. Therefore, it is not possible at this stage to consider the said request of the petitioner. The writ petitioner, therefore fails and is dismissed. There will, however, be no order as to costs.

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

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