

(2011) 06 MAD CK 0284

In the Madras High Court

Case No : Writ Petition No. 8799 of 2004

G. Balasubramanian and Suseela

APPELLANT

Vs

The Assistant Commissioner, (Land Reforms) Erode and The
Land Commissioner

RESPONDENT

Date of Decision : 07-06-2011

Acts Referred:

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 10(1),
10(5), 8, 83

Citation : (2011) 06 MAD CK 0284

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

**Advocate : A. Sivaji, for the Appellant; M. Dhandapani, Spl. G.P., for the
Respondent**

Final Decision : Dismissed

Judgement

K. Chandru, J.—The two writ Petitioners have filed the Special Revision Petition u/s 83 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (for short Act) before the Tamil Nadu Land Reforms Special Appellate Tribunal, challenging an order of the second Respondent dated 22.12.2000, dismissing the revision petition. The said revision petition was taken on file as S.R.P. No. 34 of 2001.

2. In view of the abolition of the Tribunal, the matter stood transferred to this Court and was renumbered as CRP No. 1909 of 2003. However, a learned Judge of this Court opined that no Civil Revision Petition will lie as the officers whose orders under challenge were not a Court but only statutory authorities. Therefore, the CRP was converted into writ petition and notice was ordered.

3. The case of the Petitioners before the Tribunal was that the first and second Petitioner were husband and wife. The first Respondent initiated action against the Petitioners under Tamil Nadu Act 58/61 as amended by Act 17/70. While doing so, the said Respondent had not taken note of and given effect to the

preliminary decree passed by the Civil Court in O.S. No. 418 of 1966 on the file of the Sub Court, Coimbatore. The preliminary decree was passed on 20.07.1967. Based on the said preliminary decree, a final decree was passed in I.A. No. 498 of 1970 on 18.08.1970. The factual and legal aspect of the Civil Court decree was not taken note of by the second Respondent Commissioner. These issues were agitated before this Court in a writ petition. After formation of the Tribunal, it was transferred to the Tribunal and re-numbered as T.R.P. No. 309 of 1991. As per the order of the Tribunal, the decree of the Civil Court has to be given effect to.

4. The Commissioner by the impugned order found that the first Petitioner was having lands more than the ceiling limit as on 15.02.1970. He had a total extent of 252.31 Ordys. Acres equivalent to 64.835 Std. Acres u/s I and 67.43 Ordys. Acres equivalent to 22.470 Std. Acres u/s VI. Since the owner did not file any return as required u/s 8 of the Act after the advent of the Act on 15.02.1970, the details of the lands held by him were gathered and a draft statement u/s 10(1) of the Act was published in the Government Gazette on 10.04.1980 and a copy of the same was also served on the first Petitioner on 24.07.1980. He filed an objection on 21.08.1980. An enquiry u/s 10(5) of the Act was conducted on 24.11.1980 and 06.12.1980 and an order u/s 10(5) was passed on 02.06.1982, declaring that the family of land owner held an extent of 26.009 Std. Acres of land as surplus in Section I and 12.476 Std. Acres of land in Section VI. The said order was served on the land owner on 26.04.1983.

5. As against the said order, the land owner preferred an appeal before the Land Tribunal, Madurai in LTCMA No. 110 of 1983. The Tribunal, by an order dated 31.05.1985 partly allowed the appeal in so far as it relates to partition decree passed in O.S. No. 418 of 1966 dated 20.07.1967 and remanded the case for fresh disposal and after verifying the enjoyment of the property set out in Schedule A in the suit shall be considered. Against the said judgment of the Tribunal, the land owner filed C.M.P. No. 10623 of 1986 in C.R.P. No. 2097 of 1986. This Court initially granted interim stay on 04.12.1986. In view of the formation of the Special Appellate Tribunal, the matter was transferred and it was re-numbered as TRP. No. 309 of 1991. The Tribunal partly allowed the revision on 16.12.1992 and remitted the case to the first Respondent to reconsider the issue after issuing notice of hearing to the parties within four months.

6. As directed by the Tribunal, the Authorised Officer passed an order on 28.01.2004. Against the said order, the Petitioner preferred a contempt application before the Special Appellate Tribunal which was subsequently converted as a revision petition and numbered as SRP. No. 61 of 1994. After getting the report of the Authorised Officer, the SRP was disposed of on 06.03.1995 with a direction to delete an extent of 22.15 acres which was sold by the second Petitioner prior to 15.02.1970. As per the direction of the Tribunal, the Authorised Officer by an order dated 26.09.1996, declared an extent of

1.133 Std. Acres in Section I and 5.093 Std. Acres in Section VI. It was found that there was some clerical error crept in while converting the ordinary acres into standard orders, the correction order was made on 25.01.2000. Against the orders dated 26.09.1996 and 25.01.2000, the Petitioners filed the Revision Petition once again and that was dismissed by the Land Commissioner, by an order dated 22.12.2000.

7. The contention raised by the Petitioners was that all the family properties were also subject matter in the Civil Court and there was a partition between the land owner and his sons and decree in this regard was not considered. However, this Court is not inclined to accept the submissions made by the Petitioners. The authorities have considered the effect of the civil court order and they have also made necessary exclusion giving effect to the civil court order. The Petitioners' intention is only to drag on the proceedings further and to make it appear that there are no surplus lands at all. The stand of the Petitioners cannot be appreciated. There is no case made out by the Petitioners to interfere with the order passed by the land Commissioner.

8. In the light of the above, the writ petition stands dismissed. However, there will be no order as to costs.