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**(1985) 11 MAD CK 0003**  
**In the Madras High Court**  
**Case No : C.R.P. 4193 of 1982**

G.R. Radhakrishnan

APPELLANT

Vs

The Authorised Officer, Land Reforms, Kancheepuram

RESPONDENT

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**Date of Decision :** 15-11-1985

**Acts Referred:**

**Citation :** (1985) 11 MAD CK 0003

**Hon'ble Judges :** V. Ramaswami, J

**Bench :** Single Bench

**Advocate :** G. Narasimhalu, for the Appellant; Jermiah for Addl. Govt. Pleader, for the Respondent

**Final Decision :** Allowed

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## **Judgement**

V. Ramaswami, J.—The petitioner herein along with his four brothers constituted a Hindu undivided family. The family was holding lands in

Vishnuvakkam, Karikkalavakkam, and Melanur villages of Trivellore taluk as on 15th February, 1970. That he and his brothers along with the

wives of some of the brothers constituted a Hindu undivided family and there was no partition among them is admitted. On the ground that his

share in the joint family lands is not within the ceiling area, the petitioner seems to have not filed any return. However, treating an extent of 20 acres

and 22 cents (11.25 standard acres) which was in the name of the petitioner as his private property, the Authorised Officer, Kanchipuram passed

an order on 24th February, 1975 declaring 0.93 standard acres as the surplus land The petitioner who is the eldest of the brothers preferred an

appeal before the Land Tribunal (Subordinate Judge), Chingleput in C.M.A. 27 of 1975 That appeal was allowed and the order dated 24th

February, 1975 was set aside and the matter was remanded to the Authorised Officer, Land Reforms, Kanchipuram for fresh enquiry and disposal. At that stage the petitioner submitted a return and also claimed that the properties held by him are all joint family properties and there is no surplus. He also examined the village karnams of Karikkalavakkam, Vishnuvakkam, Melanur and Padur villages. After a consideration of the evidence and other records, the Authorised Officer, Kanchipuram in his proceedings R81/TVR/MRT/17/80-D, dated 28th November, 1978 held that the share of the petitioner in the joint family properties is within the ceiling limit and that no further action is called for and in that view, he had dropped the proceedings. It is pertinent to point out at this stage that in this order the question whether the disputed land is a joint family property or a separate property was specifically considered and the Authorised Officer found that these lands measuring 20.22 acres in Melanur village were purchased by the petitioner under the document dated 15th November, 1966 only from and out of the income derived from ancestral properties and that, therefore, they are also ancestral properties. As already stated, this order is dated 28th November, 1978. When the matters stood like that, the succeeding authorised officer, Land Reforms, Kanchipuram, in his proceedings dated 20th August, 1979 without notice to the petitioners, made a fresh order dated 20th August, 1979 which is verbatim the same as that of the order dated 24th February, 1975 declaring a surplus of 0.93 standard acres and directing the draft statement to be published under S.10(1). This Authorised Officer has not even referred to the earlier order dated 28th November, 1978. Against the draft declaration, the petitioner preferred an appeal to the Tribunal without success. It is against this order dated 20th August, 1979 as confirmed by the Tribunal's order dated 30th April, 1982, this revision has been filed. Apart from the merits the learned counsel for the petitioner has taken an objection that the order dated 28th November, 1978 could not have been revised and in fact the order dated 20th August, 1979 does not even purport to revise the earlier order and that, therefore the order dated 20th August, 1979 as confirmed by the Tribunal is illegal and without jurisdiction. The learned counsel is well founded in his contention. After the Tribunal has remanded the matter for fresh consideration in C.M.A. 27 of 1975, the Authorised Officer has made an order dated 28th November, 1978

accepting that the land standing in the name of the petitioner and situate in Melanur village measuring 11.25 standard acres is the joint family

property of the petitioner and his brothers and it is not the separate property of the petitioner. That order has become final. There is no provision in

the Act and the learned Government Pleader was also not able to lay his hand on any particular provision which enables the Authorised Officer to

review his earlier order or to reopen a closed issue. In fact, the order does not purport to be a review also. The only provision which is relevant in

this case probably is S.15 but that deals with clerical or arithmetical mistakes and not a review of the earlier order itself or passing a fresh order.

The finding of the Authorised Officer that the lands covered by the sale deed dated 15th November, 1966 measuring 11,25 standard acres

through standing in the name of the petitioner were lands purchased from and out of the income of the joint family properties and as such joint

family properties is a final one which could not have been revised by the succeeding officer on the ground of clerical or arithmetical mistake. The

order dated 20th August, 1979, therefore, lacks jurisdiction. On this short ground, the revision petition will have to be allowed.

2. It is not necessary for me, therefore, to go into the merits of the contention of the learned counsel that they are really joint family properties in

which the petitioner has got only a share and that alone will have to be taken into account for the purpose of determining the ceiling. The revision

petition is allowed and the order dated 20th August, 1979, as confirmed in the appeal is set aside. But there will be no order as to costs.