

**(2013) 08 MAD CK 0156**

**In the Madras High Court**

**Case No :** Writ Petition No. 21933 of 2013 and M.P. No's. 1 and 2 of 2013

K. Radhakrishnan, K. Muthukumarasamy and K.  
Bakthavatchalam

APPELLANT

Vs

The Land Commissioner, The Assistant Commissioner and S.  
Kuppamal

RESPONDENT

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**Date of Decision :** 12-08-2013

**Acts Referred:**

**Citation :** (2013) 08 MAD CK 0156

**Hon'ble Judges :** D. Hariparanthaman, J

**Bench :** Single Bench

**Advocate :** Ilanthirayan for Sai Bharath and Ilan, for the Appellant; V. Subbiah, Spl. G.P. for R1 and R2, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

D. Hariparanthaman, J.—One Somasundara Mudaliar was a person attracted by the provisions of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961, as he held lands in excess of the ceiling area of 30,000 Standard acres as on 6.4.1960, the date of commencement of the Act. His wife also held Stridhana lands in excess of the ceiling area of 10,000 Standard acres u/s VI. After following the procedure as contemplated under the Act, final statement u/s 12 of the Act was published in the Tamil Nadu Government Gazette dated 5.3.1980 declaring an extent of 13.56 Standard Acres u/s I and 21.25 Standard Acres u/s VI as surplus. Then, the Notification u/s 18(1) of the Act was published in the Tamil Nadu Government Gazette dated 23.7.1980.

2. The land owner Somasundara Mudaliar filed a Revision Petition before the Land Commissioner against the Notification u/s 18(1) of the Act dated 23.7.1980. The Land Commissioner dismissed the Revision Petition as not maintainable on 24.9.1980.

3. The land owner's wife Kuppammal also filed a Writ Petition against the

proceedings initiated under the Act. The main prayer in the Writ Petition was that no notice was issued to her prior to the declaration of draft statement.

4. The High Court allowed the Writ Petition No. 148 of 1981 preferred by her on 13.4.1987 and directed to prosecute the proceedings under the Act from the earlier stage adhering to the provisions of the Act after affording opportunity to the parties.

5. Thereafter, the proceeding was initiated and the proceeding u/s VI was issued, declaring an extent of 5.065 Standard Acres as surplus. Then the final statement u/s 12 of the Act and the Notification u/s 18(1) of the Act was published in the Tamil Nadu Government Gazette dated 1.11.2006 and 14.2.2007 respectively declaring an extent of 5.900 Standard Acres as surplus. The final statement dated 1.11.2006 and the consequential proceedings in G.O.Ms. No. 65 Revenue Department dated 5.2.2007 were issued u/s 18(1) of the Act and the same was published in the Tamil Nadu Government Gazette dated 14.2.2007.

6. The petitioners herein preferred Revision Petition No. 17 of 2007 before the Land Commissioner. The Land Commissioner allowed the Revision Petition and remanded the matter to decide afresh. While so, the petitioners have filed this Writ Petition challenging the order of the first respondent, remanding the matter to the second respondent for deciding afresh.

7. Heard the learned counsel for the petitioners.

8. The learned counsel for the petitioners has submitted that the final statement u/s 12 of the Act dated 1.11.2006 and the proceedings in G.O.Ms. No. 65, Revenue Department dated 5.2.2007 are issued without jurisdiction and therefore the Writ Petition is maintainable.

9. I am not able to appreciate the submission made by the learned counsel for the petitioners. The petitioners could very well urge all those issues before the second respondent on remand. At their instance, the first respondent allowed the Revision Petition and remanded the matter to the second respondent to consider the entire issue and pass a fresh order.

10. In this Writ Petition, the challenge is made by the petitioners to the Notification issued in 2006 and the G.O.Ms. No. 65, Revenue Department dated 5.2.2007, after 7 years, as without jurisdiction. They have not chosen to question the same immediately. On the other hand, they have questioned the same before the first respondent by filing a Revision Petition.

11. The Revisional authority allowed the Revision Petition by the order dated 2.4.2013 and directed the second respondent to decide afresh. Instead of raising all the issues before the second respondent, the petitioners have approached this Court with sole intention to quash the proceedings in 2007. In my view, when the petitioners have chosen to file a Revision Petition before the first respondent and have also succeeded and when the matter is remanded back to the second respondent, the writ petitioners cannot now question the proceedings of the year

2007, without raising all the issues before the second respondent. Hence, the Writ Petition fails and the same is dismissed. No costs. The connected Miscellaneous Petitions are closed.