

(1993) 11 MAD CK 0061
In the Madras High Court
Case No : W.A. No's. 1293 to 1299

K.M.A. Shahul Hameed

APPELLANT

Vs

The District Revenue Officer and Others

RESPONDENT

Date of Decision : 23-11-1993

Acts Referred:

Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 — Section 4(3), 5(3), 6, 7

Citation : (1993) 11 MAD CK 0061

Hon'ble Judges : K.A. Swamy, C.J.;Somasundaram, J

Bench : Division Bench

Advocate : A. Ramanathan, for the Appellant; K. Sukumaran, for P.T.S. Narendra vasan and D. Gurumoorthy, for the Respondent

Judgement

K.A. Swamy, C.J.—These appeals have been filed against the common order dated 13-10-1993 passed by the learned single Judge in Writ Petitions Nos. 15786 to 15792/93. Though the learned single Judge has agreed with the reason given by the revisional authority had nevertheless passed an order staying the operation of the order passed by the Record Officer.

2 The matter arises out of a proceeding initiated under the provisions of the Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 (hereinafter referred to as the Act). The Record Officer has recorded that the Appellant is the tenant of the lands in question. The land owner, aggrieved by the said order, has gone in appeals to the Appellate Authority, who is the Revenue Divisional Officer. Pending disposal of the appeals the Revenue officer has stayed the operation of the order passed by the Record Officer. The revisional authority has set aside the order on the ground that the order has been passed without notice to the Appellant herein.

3. Learned single Judge has held that the Appellate Authority should not have granted the stay to continue till the appeals are disposed of without notice to the Respondent in the appeal Therefore, it has been held by the learned single Judge

that the revisional authority is justified in interfering with the order of the Appellate Authority. Ultimately, learned single Judge has directed the Appellate Authority to dispose of the appeals within two months from the date of the order and in the meanwhile the order of the Record Officer has been stayed. Therefore, it follows that the learned single Judge has proceeded on the basis that no interim order, till the disposal of the appeals, should have been passed without notice, therefore, it is an invalid order.

4. Section 6 of the Act, which provides for an appeal, read thus:

6. Appeal: Any person aggrieved by an order made under Sub-section (3) of Section 4 or Sub-section (3) of Section 5 may within such period as may be prescribed, appeal to such authority as may be specified by the Government in this behalf (hereinafter referred to the appellate authority) and the decision of such authority, on such appeal subject to the provisions of Section 7 be final.

We have been informed that there is no other provision contained in the Act. nor the Rules are framed dealing with the scope and ambit of the power of the appellate authority. It is established principle of law that whenever a power of jurisdiction is conferred upon an authority, all that is necessary for the purpose of effective exercise of that power or jurisdiction must be deemed to have been conceded to it by the legislation, as otherwise the very purpose, intendment and object of conferment of power of jurisdiction cannot be achieved.

5. When the appellate authority granted the stay, without notice to the other side, it was nevertheless open to the other side to appear and seek modification or vacation of it. Merely because the appellate authority stated in the order that the interim order of stay to continue till the disposal of the appeal, it did not cease to be an ad interim order granted without notice to the other side and thereby enabling the other side to appear and seek modification or vacation of it. As such, we are of the view that the revisional authority as well as the learned single Judge are not correct in proceeding on the basis that the ex parte interim order passed by the appellate authority to be effective till the disposal of the appeal, was bad in law. When once there is jurisdiction to pass an interim order, it can be passed with notice or ex parte depending upon the facts and circumstances of each case. The aggrieved party is entitled to seek modification or vacation of the same. Therefore, it is not possible to hold that the appellate authority acted without the authority of the law while granting an interim order of stay, which did not in any way prevent the Respondents to seek vacation or modification of it.

6. Now that the learned single Judge has granted an order staying the operation of the order of the Record Officer, pending disposal of the appeal, and has directed that the appeal should be heard and decided within two months from the date of the order we do not consider that there is any justification to interfere with the order passed by the learned single Judge, except to the extent it is clarified above. For the reasons stated above, the appeals are rejected.