

(1981) 11 MAD CK 0051
In the Madras High Court

R.V. Appaswamy

APPELLANT

Vs

Authorised Officer (Land Reforms) Kovilpatti

RESPONDENT

Date of Decision : 26-11-1981

Acts Referred:

Citation : (1982) 1 MLJ 219

Hon'ble Judges : S. Nainar Sundram, J;S. Nainar Sundaram, J

Bench : Division Bench

Judgement

S. Nainar Sundram, J.—The matter arises under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act (LIII of 1961)(hereinafter referred to as "the Act"). All the proceedings under the Act upto Chapter VI of the Act have been completed. Even the determination of amount for the land acquired by the Government has been done by the respondent. By order, dated 15th October, 1975, he determined the amount payable for the land acquired at Rs. 19,049-64p. It is admitted that the preparation and publication of the draft assessment roll and then the final assessment roll pursuant to such determination have also been completed and the amount payable for land acquired has also been disbursed. Practically, after the lapse of 3 years and 5 months, the respondent has proposed to take action u/s 50(9) of the Act. In the impugned notice, dated 29th March, 1979, u/s 50(9) of the Act, the respondent has stated that the surplus lands acquired under the Act remained waste for five years immediately prior to the publication of the notification u/s 18(1) and as no income was derived from those lands then, no amount is payable for the said surplus lands, and hence it is proposed to make necessary corrections in the final assessment roll on the ground of bona fide mistake and recover the amount already paid. So stating, the respondent called upon the petitioner to make his representation against the proposed action.

2. Mr. G. Ravishankar, learned Counsel appearing for the petitioner submits that the power under Section; 50(9) of the Act is similar to the power u/s 15 (a) of the Act and the ratio of the Division Bench of this Court in Syed Rabia Beevi Vs.

The Authorised Officer, Land Reforms and Another, , would squarely apply to the power u/s 50(9) of the Act. Section 15(a) of the Act reads as follows:

15. Power to rectify bona fide mistakes and clerical errors. Notwithstanding anything contained in Sections 12 and 14, the authorised officer, may, either of his own motion or on the application of any of the parties

(a) if he is satisfied that a bona fide mistake has been made in regard to any entry in the final statement published u/s 12 or 14, make the necessary corrections therein.

The language of Section 50(9) of the Act is practically similar as could be seen from the following extract of the said provision:

50(9). The authorised officer may, if he is satisfied either of his own motion or on the application of any of the parties that a bona fide mistake has been made in regard to any entry in the draft assessment roll or in the assessment roll as published finally, make necessary correction therein and on such correction being made, the provisions of Sub-sections (3) to (8) shall, as far as may be, apply thereto.

The machinery u/s 50 of the Act is elaborate and comprehensive. The amount for the land acquired has got to be determined at the rate specified in Schedule III as stated in Section 50(3) of the Act. There is a process for preparation and publication of the draft assessment roll, considering the objections over the draft assessment roll and then causing the publication of the final assessment roll.

3. With regard to the scope of the power u/s 15 of the Act, the decision of the Division Bench referred to above sets out the ratio in the following terms:

It seems to us that Section 15, having regard to the language employed, does not amount to the usual power of revision. The power of revision is conventionally conferred by the Legislature by employing the words "if the officer is satisfied about the legality, propriety and correctness of the order". That is not the language of Section 15. The mistake that can be corrected u/s 15(a) is in regard to entry in the final statement. It follows, therefore, that if the entry in the final statement is based upon the earlier decision after hearing the objections under Sections 10 and 12, it is not contemplated that Section 15 is to cover such a situation. Elaborate procedure has been laid down by Sections 10 to 12 for preparing the draft statements, hearing objections and then after disposing of the objections publishing a final statement. Any finding that is arrived at in respect of the material entries in the form would be as a result of deciding the pros and cons in the light of the objections. If that is kept in view, it is obvious that, u/s 15, it is not intended that a finding arrived at in a solemn and quasi-judicial fashion could be set at naught merely because the officer is satisfied that a bona fide mistake has been made. If that were the intention, the language employed in Section 15 would have been different. What appears to us to be the scope of Section 15 is that it applies to mistake in the correctness not of the

merits but of the form of the entry in the final statement, just as Section 15(b) is directed against clerical or arithmetical mistake.

The language of Section 50(9) being similar to the language employed in Section 15(a) of the Act, the ratio of the Division Bench applies with equal force with regard to the scope of the power u/s 50(9) of the Act. The reasons given by the respondent for reopening the matter cannot be sustained in view of the principle that the power to correct a bona fide mistake in regard to any entry cannot take within its amplitude a power to correct mistakes on merits. This is exactly what the respondent has proposed to do. This violates the principle laid down by the Division Bench while construing the power to correct bona fide mistakes in regard to any entry u/s 15 of the Act. As stated above, the determination of the amount as per Schedule III, preparation of the assessment roll, considering the objections over the same and the publication of the final assessment roll have all been done adhering to the provisions of the Act, and the whole matter got concluded long back after an investigation into and adjudication over the merits of the case. Viewed in this light, it is not possible to countenance the notice issued by the respondent and which is being impugned in the writ petition. This obliges me to interfere in writ proceedings. Accordingly, this writ petition is allowed. There will be no order as to costs.