
(1981) 12 MAD CK 0035
In the Madras High Court

S.K. Munuswami Mudaliar

APPELLANT

Vs

The Authorised Officer (Land Reforms)

RESPONDENT

Date of Decision : 22-12-1981

Acts Referred:

Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 — Section 18, 18(1), 20, 23, 7

Citation : (1982) 95 LW 275 : (1982) 1 MLJ 343

Hon'ble Judges : V. Sethuraman, J

Bench : Single Bench

Judgement

V. Sethuraman, J.—The land owner is the petitioner in this revision. The petition has been filed to revise the order of the Land Ceiling

Tribunal (Principal Subordinate Judge), Chingleput, passed in C.M.A. No. 199 of 1978. The petitioner held 35.46 ordinary acres equivalent to

16.28 standard acres as on 15th February, 1970. Out of this holding, an extent of 2.78 ordinary acres equivalent to 0.92 standard acre in Section

No. 8112 in Amirthaman-galam village was exempted u/s 73(8) of the Tamil Nadu Land Reforms Act, 1970, hereinafter referred to as the Act.

Section 73(8) of the Act provides for exemption where any land is used exclusively for growing fall trees on the date of the commencement of the

Act. After taking into account the exemption, the petitioner's holding was 15.33 standard acres and since the surplus was within the ceiling limit,

further action was dropped by the authorities.

2. It was subsequently found on inspection that on the exempted extent of 2.78 ordinary acres paddy crop was raised in faslis 1385 and 1386.

Under the proviso to Section 73(8) of the Act, the land with reference to which exemption was granted, would enjoy the exemption only so long

as the land was used for such purposes. As the condition of exemption was violated, by raising paddy crop, the Authorised Officer (Land

Reforms), Kancheepuram, passed an order determining the surplus land to be 1.26 standard acres and requiring the petitioner to surrender this

1.26 standard acres within a week from the date of receipt of the order. The petitioner filed an appeal to the Land Ceiling Tribunal, which

confirmed the order of the Authorised Officer. Hence, the revision.

3. In this revision, it is contended, that on 9th May, 1972, the petitioner had settled 5.22 standard acres equivalent to 14.67 ordinary acres in

favour of his married daughter, and therefore after this settlement, he would be holding only less than the ceiling limit and that therefore, there was

no question of the exemption being withdrawn. On behalf of the Government, it was contended that so long as the condition u/s 73(8) of the Act

was not satisfied, the land would be surplus land. It was, therefore, argued that the orders of the Authorised Officer and the Land Tribunal should

be confirmed.

4. Section 23 of the Act so far as it is relevant, provides thus:

Subject to the provisions of Section 20, for the purpose of fixing, for the first time, after the date of the commencement of this Act, the ceiling area

of any person holding land on the date of the commencement of this Act in excess of 15 standard acres-

(a) any transfer, whether by sale or by gift, exchange, surrender, settlement or otherwise; or

(b) * * *

effected on or after the notified date and before the publication of a notification under Sub-Section (1) of Section 18, shall be, and shall be deemed

always to have been, void and accordingly the authorised officer shall calculate the ceiling area of such person as if no such transfer... had taken

place.

This provision is subject to Section 20 of the Act, under which, if, as a result of any transfer of land either by sale, gift, exchange, surrender,

agreement, settlement or otherwise effected on or after the notified date the extent of land held by the transferee exceeds the ceiling area, then the

right, title or interest accrued in his favour by virtue of such transfer of land in excess of the ceiling area shall, as a penalty for contravention of the

provisions of Section 7 of the Act be deemed to have been transferred to the Government with effect from the date of such transfer, on a

declaration made by the authorised officer within whose jurisdiction such excess land or the major part thereof is situated. This provision was

intended to strike against the avoidance of the provisions of the Act by subsequent transactions effected after the notified date. In such a case, the

transferee or the settlee will lose the excess land on the declaration made by the Authorised Officer. This is not such a case and if this provision

viz., Section 20 of the Act had to be applied, it would have to be applied only in the case of the settlees.

5. Coming back to Section 23 of the Act, it would be clear that it applies only for the purpose of fixing the ceiling for the first time. It avoids the

transactions entered into between the notified date and before the publication of the notification. The notified date is 15th February, 1970, and the

publication of the notification u/s 18(1) is 2nd October, 1970. It is the intervening transactions that are sought to be affected by Section 23 of the

Act. The present is not a transaction of that kind. It falls outside the period 15th February, 1970 and 2nd October, 1970. Section 23 of the Act

was, therefore, not relevant for our present purpose. The intendment of the Act is only to see that the holdings of any person are not in excess of

the ceiling contemplated by it. If in the present case, the petitioner was holding the entire 16.28 acres intact and had converted the land, which was

used exclusively for growing trees, for purposes of cultivation, then he would not be eligible for the exemption and the excess land will have to be

taken over. But Section 73(8) of the Act does not apply to a case like this where the holding of the owner is less than the ceiling fixed under the

Act. In such a case, the owner will be free to convert the exempted area to any use to which he can profitably put.

6. The result is, the order of the Authorised Officer and that of the Land Tribunal are not legal and proper. The civil revision petition is accordingly

allowed. There will be no order as to costs.