

(1982) 03 MAD CK 0056

In the Madras High Court

Case No : Civil Revision Petition No. 522 of 1981

V.S. Parthasarathy Mudaliar

APPELLANT

Vs

The Authorised Officer (Land Reforms)

RESPONDENT

Date of Decision : 25-03-1982

Acts Referred:

Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970 — Section 10, 12, 15, 73, 78

Citation : (1982) 03 MAD CK 0056

Hon'ble Judges : Swamikkannu, J

Bench : Single Bench

Advocate : B. Punyakotti Chetty and V. Shanmugham, for the Appellant; Add. Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Swamikkannu, J.—The only point that arises for consideration in this civil revision Petition is whether the Authorized Officer can suo motu revise his own Order, granting exemption and turning round to say that by bona fide mistake he had (SIC) rendered judgment and thereby revise his own judgment.

2. It is common ground that the Authorized Officer in his Order dated 8th November 1978 in P.48/TVR/MRI/70-D has observed as follows:

The special Deputy Tahsildar, (Land Reforms), Kanchipuram who inspected the exempted lands has reported that an extent of 5.26 ordinary acres for which exemption was granted u/s 73 (viii) for growing fuel trees has been cultivated with paddy, gingerly, groundnut etc. in violation of the conditions of exemptions. Verification of the village accounts and enquiry of the village Karman have also confirmed the violation of the condition.

The land owner was enquired in the matter. During enquiry, the land owner has slated that the (SIC) of exemption were not violated as long as they were in his holding and it was only after the lands were sold by him, the purchaser has

violated the conditions. On verification of this office records, the Orders dated 2nd June 1974, ahead granting exemption u/s 73(viii) are also (SIC) to be incorrect. It therefore, include the exempt extent of 5.26 ordinary acres equivalent to 3.00 standard acres in the holdings of the Land owner and declare an extent for 2.90 Standard acres as surplus in this case.

The observation made above, according to the learned Counsel for the revision Petitioner is assuming the jurisdiction which is not vested with the Authorized Officer because when (SIC) exception had been granted u/s 73(viii) of the Tamil Nadu (SIC) Reforms (Reduction of Ceiling of Land) Act XVII of 1970 and that was found to incorrect by it by subsequent investigation, it is only under appeal provided u/s 73 of the Act the aggrieved Authorized Officer can agitate the matter and not sou motu can include the exemption extent of 5.26 ordinary acres equivalent to 3.00 standard acres in the holdings of the Land owner and declare an extent for 2.90 standard acres as surplus in this case. The learned Counsel for the revision Petitioner in this regard refers to the decision in Chellammal v. The Authorized Officer, Land Reforms, Madurai (1970) 2 M.L.J. 4 (S.N.) as well as the decision in Syed Rabia Beevi Vs. The Authorised Officer, Land Reforms and Another, .

3. In Chellammal v. The Authorized Officer (1970) 2 M.L.J. 700, Land Reforms, Madurai (1970) 2 M.L.J. 4 (S.N.) one R died on 2nd August, 1961 possessed of 45 standard acres of land and leaving his widow and a married daughter. The authorized Officer examined the question of ceiling and found as a result of the devolution by the law of succession of the property of the deceased to his widow and married daughter, each will get lands below the ceiling, that the case did not come under the purview of the Act. On the question whether the Authorized Officer could revive the proceedings on the administrative directions of the Board of Revenue, it was held by this Court that the Authorized Officer having made an Order that the Act would not apply in the circumstances of the case, would have no jurisdiction vested in him to revise and continue the proceedings under the Act, that it would not be correct to say that the proceedings would be pending till the final publication u/s 12 of the Act, that the proceedings under the Act are intended to find the excess and if the Officer passed an Order that there was no excess that Order would be final and that no provision is to be found in the Act to reopen such an Order. By referring to the above short notes reported, the learned Counsel for the revision Petitioner submits that in the instant case, the very same attitude had been exhibited by the Authorized Officer. which has been actually Prohibited by the ratio decided of the above said decision rendered by this Court. In this regard, the decision in Syed Rabia Beevi v. The Authorized Officer (1970) M.L.J. 700. which arises out of Section 15 of the Madras Land Reforms (Fixation of Ceiling on Land) Act (LVIII of 1961) exhibits the following ratio decided:

Section 15 having regard to the language employed, does not amount to the usual power of revision. The mistake that can be corrected u/s 15(a) is in regard

to an 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. What appears to be the scope of Section 15 is that it applies to mistakes 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.

4. In the instant case, it is not the clerical error or the bona fide mistake contemplated u/s 15 of the Act that is sought to be revoked by the Order under revision, but the Authorized Officer who revised his own Order resorted to a fresh assessment regarding the determination of the exemption. This is certainly revising its own Order which cannot be done under the provisions of the Act. If it was aggrieved, certainly as pointed out by the learned Counsel for the revision Petitioner herein, the provision of Section 78 ought to have been resorted to. There is absolutely no provision in the enactment which justifies such a revision indulged in by the Authorized Officer. Thus, the Order under revision becomes revisable and is hereby revised. The revision Petition is allowed with costs.