

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2015

CORAM :

THE HONOURABLE Ms.JUSTICE K.B.K.VASUKI

C.R.P.No.1984 of 2003

Director of Land Reforms,  
Chepauk, Chennai-5.

... Petitioner

Vs.

1.District Revenue Officer,  
(Land Tribunal), Chennai-5.

2.Assistant Commissioner  
(Land Reforms), Erode.

3.Rangasamy Gounder

... Respondents

**Prayer :** This petition, which was transferred from the file of the Tamil Nadu Land Reforms, Special Appellate Tribunal, Chennai to this Court under Section 115 CPC of the Land Reforms Special Appellate Tribunal against the order dated 31.12.1996 made in LTC.Nos.24, 25 & 26 of 1996 on the file of the District Revenue Officer (Land Tribunal), Thanjavur.

For Petitioner : M/s.Venugopal.

For Respondents : Mr.T.Murugamanickam for R3.  
R1& R2 Notice Served.

**ORDER**

The present revision is filed by Commissioner and Director of land reforms for setting aside the order of the Land Reforms Special Appellate Tribunal made in LTC.Nos.24, 25 and 26 of 1996 dated 31.12.1996.

2.The few facts relevant for consideration herein are as follows :-

The third respondent by name Rangasamy Gounder owned an extent of 89.49¼ ordinary acres equivalent to 25.421 standard acres, out of which the land owner settled an extent of 39.58 ordinary acres equivalent to 9.895 standard acres of land in the name of his mother under two documents dated 27.03.1970 and 16.04.1970 and he also sold 1.99 ordinary acres to one Kumarasamy Gounder vide document No.157 dated 07.3.1970. The original authority/Authorised Officer (Land Reforms) passed an order on 16.01.1974 holding the transaction to be void and hit by Section 22 of the Land Reforms (Fixation of Ceiling on land) Act 1961. The order was challenged by the third respondent and his mother in LTA.Nos.140 and 141 of 1974 before the Land Tribunal, Coimbatore and the same were dismissed and the order of the Land Tribunal was again challenged by the third respondent and his mother in CRP.Nos.2489 and 2490 of 1975. This Court by order dated 06.02.1978, having found that the authorised officer has not examined either the transferor or transferee or both and the authorised officer has not taken into consideration the fact that the settlement had been executed in favour of his own mother by the transferor in view of the maintenance to which she was entitled from the estate of her husband, arrived at a conclusion that the findings of

the authorised officer about the bogus nature of the transaction is not based on proper appreciation of the circumstances of the case, but is on the basis of surmises and speculations and is whimsical in nature. The High Court has further observed therein that the right claimed by the transferee/mother cannot be slightly negated by holding the settlement deeds as bogus documents. The High Court by observing so, set aside the order of the Authorised Officer holding the settlement deeds dated 27.03.1970 and 16.04.1970 as sham and nominal and remanded the matter for fresh enquiry by the authorised officer, with liberty given to the petitioner to adduce evidence in support of their contention.

3. After remand, fresh enquiry was conducted by the authorised officer who held that the transactions in question are void in nature as they reduced the area of holding and the extent of surplus to be declared under the Act thereby defeating the purpose and object of the enactment. Aggrieved by such order, the mother and son again preferred appeal before the Appellate Authority (ie) the District Revenue Officer (Land Tribunal) Thanjore. The Appellate Authority on the basis of the report of the Inspector, Land Revenue Reforms dated 16.11.1973 given to the Special Deputy Thasildar (land reforms) for

the exclusion of 5.31 acres of land covered by coconut thope for more than 30-40 years and by applying the provisions of Sec.14(1) of the Hindu Succession Act, 1956 and Section 21-A of the Tamil Nadu Land Reforms Act, found that the mother having acquired the property by way of registered documents dated 27.03.1970 and 16.04.1970 in lieu of her maintenance, become absolute and full owner by virtue of Section 14(1) of the Hindu Succession Act, 1956 and the same is covered under Section 21(A)(a) and the transactions are notwithstanding any thing contained in Section 22 or in any other provision of law under this Act or in any other law for the time being in force, shall be valid and not hit by Section 22 of the Act and the same cannot be included in the holdings of the land owner Rangasamy. The appellate authority has also placed reliance on the report of the Special Revenue Inspector land reforms dated 10.05.1973 given to the Special Tahsildar (Land reforms) which was in turn submitted to the Authorised Officer, Coimbatore and the same was received in the office of Assistant Commissioner, Coimbatore on 17.05.1973 to the effect that 5.31 acres of land was covered by coconut thope for more than 30-40 years and the same shall be excluded from the holding of Rangasamy and reliance was also placed on the statement of Ex.Karnam regarding the existence of old Coconut thope in the extent

of 5.31 acres of land. The appellate authority excluding the extent of land settlement in favour of the mother and the extent of land covered by coconut thope, held that the holding of Rangasamy Gounder is less than 15 standard acres and the same is well within the limit and the provisions of Land Reforms Act to declare any extent of land as surplus is not attracted. The appellate authority on the basis of the findings as above referred to has by its order dated 31.12.1996 allowed the appeal filed by the mother and son and set aside the order of the authorised officer (land reforms). The order of the appellate authority was received by the respondent officials on 02.01.1997 as per column 4 of the revision petition filed in Form-2. Thereafter, the Principal Commissioner and Commissioner of Land Reforms, Chennai in his proceedings in reference No.F3/9079/2000(L.Ref.) dated 23.07.2001 authorised the Commissioner and Director of Land Reforms to file suo-moto revision petition under Section 83 of Act, 1961 before the Tamil Nadu Land Reforms Special Appellate Tribunal, Chennai against the order of the Land Tribunal, Thanjavur dated 31.12.1996.

4. On the strength of such sanction order, the revision was filed in Form-2 before the Tamil Nadu land reforms Special Appellate

Tribunal, Chennai on 17.09.2001 and the revision papers were returned on 24.09.2001 for rectification of certain defects and one of the defects mentioned in column 6 of Diary No.58 of 2001 is to file petition along with affidavit to condone the delay in filing the revision petition. The revision petition was represented on 10.10.2001 with an endorsement that return Nos.6, 9, 13, 21, 25, 27 to 29 have since been complied with. However, the same was again returned on 10.12.2001 for certain defects (i.e,) one of which was to file petition to condone the delay in representation for the period from 24.09.2001 to 29.11.2001. Thereafter, the case was represented on 11.01.2002 along with application in MP.No.1 of 2002 to condone the delay of 56 days in representation and the same was ordered on 13.02.2002. While the main case was pending for numbering, Amendment Act.26/2003 came into force on 07.07.2003, as per which, the special Appellate Tribunal was abolished and the High Court was vested with revisional powers and all cases connected with the Land Reforms dealt with under the principle Act and pending before the Tribunal immediately from the date of commencement of the Act stood transferred to the High Court. Thereafter, the case was numbered as CRP.No.1984 of 2003 which is the present revision petition for setting aside the order of the Appellate Authority and the District Revenue

Officer (Land Tribunal) Thanjavur in LTC.Nos.24, 25 and 26 of 1996 dated 31.12.1996.

5.While the learned Special Government Pleader (CS) would strenuously question the correctness of the order of the Land Tribunal on merits, the learned counsel for the third respondent/Rangasamy would oppose the very maintainability of the civil revision petition on the ground of limitation.

6.Heard the rival submissions made on both sides and perused the records.

7.Before going into the impugned order on merits, the first objection to be considered herein is the issue regarding maintainability of this revision and limitation. Admittedly, the present revision was originally filed before the Tamil Nadu Land Reforms Special Appellate Tribunal, under Section 83 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act 1985. In order to understand the Scope of Section 83, it is but relevant to extract the same as below :

“83. Revision by Special Appellate Tribunal – (1)The Special Appellate Tribunal may of its own motion or on application, call for and examine the record of the

authorised officer, the Land Board, the Land Commissioner or the Land Tribunal in respect of any proceeding under this Act to satisfy itself as to the regularity of such proceeding or the correctness or legality or propriety of any decision passed or order made therein, and if, in any case it appears to the Special Appellate Tribunal that any such decision or order should be modified, annulled, reversed or remitted for reconsideration it may pass order accordingly:

Provided that every application to the Special Appellate Tribunal for the exercise of the powers under this section shall be preferred within such period as may be prescribed.

Provided further that the Special Appellate Tribunal may admit an application after the expiration of prescribed period if it is satisfied that the party concerned has sufficient cause for not presenting it within such period.

Provided also that this section shall not apply to any proceeding of the Land Tribunal in respect of which appeal lies under Section 79 to the Special Appellate Tribunal.

(2) No order prejudicial to any person shall be passed under Sub Section(1) unless such person has been given an opportunity of making his representations.

8.Rule 26 of Tamil Nadu Land Reforms (Special Appellate Tribunal) Rules provides for the procedure for presentation, verification and registration of appeals and applications for revision.

9.Rule 26(5) which relates to revision applications is extracted as below :-

“26(5) Every application for revision under Section 83 shall be in Form 2 and shall be sent by registered post addressed to the Registrar or presented to the Registrar in person by the Government through such person as may be nominated for this purpose by special or general order of the Commissioner of Land Reforms within ninety days from the date on which the proceeding, decision or order, to which the application relates was communicated to the applicant or issued, whichever is later and by any person aggrieved by such proceeding, decision or order to which the application related in person or by his Pleader or authorised representative or by sending it by registered post within thirty days from the date on which the proceeding, decision or order, to which the application relates, was communicated to the applicant or issued, whichever is later.”

10.Rule 29(1), (7) and (8) which relates to registration of appeal and application for revision is extracted hereunder :-

“29(1)On receipt of an appeal or application for revision, the Registrar or, as the case may be, the officer authorised by him, shall endorse on it the date of its receipt. The appeal or application for revision shall be examined to satisfy.-

(i)Whether the person presenting it has authority to do so; and

(ii)Whether it conforms to the provisions of the Act and the rules made thereunder.

If the Registrar is satisfied on these points, he shall cause it to be registered in a register to be maintained for the purpose.

29(7)When an appeal or application for revision is preferred after the expiry of the period prescribed under these rules, it shall be accompanied by a petition supported by an affidavit setting forth the facts on which the applicant relies to satisfy the Special Appellate Tribunal that the appellant or applicant has sufficient cause for not preferring the appeal or application for revision within such period. Such appeal or application for revision shall not be admitted unless notice is given to the respondent and his objections are heard and the Special Appellate Tribunal is satisfied that the appellant or applicant had sufficient cause for not preferring the appeal or application for revision in time.

29(8)Whenever an application for revision under Section 83 is preferred by an officer authorised by the Government under the Act, an authenticated copy of the order of the Commissioner of Land Reforms directing him to prefer the application for revision shall be filed along with the application for revision.

11. The combined appreciation of Section 83 of the Act and Rules 26(5), 29(1), 29(7) and 29(8) as extracted above would explain the legal position for filing revision as follows : (i) The Special Appellate Tribunal may of its own motion or on application, call for and examine the record of the authorised officer, the Land Board, the Land Commissioner or the Land Tribunal. (ii) Every application under this section before the Special Appellate Tribunal for exercise of revisional power shall be filed by the Government through such person as may be nominated for this purpose by special or general order of the Commissioner of Land Reforms within ninety days from the date on which the proceeding, decision or order, to which the application relates was communicated to the applicant or issued whichever is later. (iii) Every revision application under the Section shall be preferred by any person aggrieved by such proceeding decision or order to which the application related, in person or by his pleader or authorised representative or by sending it by registered post within thirty days from the date on which the proceeding, decision or order, to which the application relates was communicated to the applicant or issued, whichever is later. (iv) The Special Appellate Tribunal may admit an application after the expiration of prescribed period, if it is satisfied that the party concerned has sufficient cause for not

presenting it within such period. (v)The application for revision by the Government shall be accompanied by the authenticated copy of the order by the Commissioner of Land Reforms permitting him to prefer an application for revision. (vi)If the revision is filed after the expiry of the period prescribed the revision shall be accompanied by a petition supported by affidavit explaining the reasons for the delay in presentation of the revision and (vii)such petition shall be disposed of after giving notice to the respondent, after giving him an opportunity for raising his objection and neither appeal nor the application for revision shall be admitted unless the petition for delay is disposed of in the manner above stated and unless the Special Appellate Tribunal passes an order that there are sufficient cause for not preferring the appeal or application on time.

12.The facts which remain undisputed herein are that the land Tribunal passed the impugned order on 31.12.1996 and the same was communicated to the respondent officials on 02.01.1997, thereafter sanction was granted by the Principal Commissioner and Commissioner of Land Reforms thereby authorising the Director of Land Reforms to file revision petition before the Appellate Tribunal on 23.07.2001 and the revision was filed in Form-2 on 17.09.2001 and the same was

returned on 24.09.2001 for filing application with affidavit to condone the delay in filing revision petition. Whereas, the revision papers were represented without actually complying with such return and without filing any affidavit and petition to condone the delay in filing the revision and the same was on abolition of the Tribunal by amendment Act 26/2003 dated 07.07.2003 transferred to High Court which was conferred with the revisional jurisdiction and the High Court numbered the revision without verifying the nature of the defects referred to in the return made by the Special Appellate Tribunal and the actual compliance or otherwise of the same by the revision petitioner etc., It is sought to be contended by the learned Special Government Pleader that as the application is filed before the Special Appellate Tribunal to exercise suo-moto power no limitation is prescribed for the same and the question of filing any delay petition does not arise in this case. The contention so raised on the side of the revision petitioner is totally contrary to and in violation of the relevant provisions of the Act and Rules.

13.The order sought to be challenged by way of revision under Section 83 of the Act was the order dated 31.12.1996 made by the Land Tribunal, Thanjavur and the revisional authority as on the date

was the Land Reforms Special Appellate Tribunal under Section 83 of the Act. As far as suo-moto revisional power is concerned the same is vested on the Special Appellate Tribunal constituted under Section 77(C) and who is the revisional authority under Section 83. Under Section 77(C)(3) Special Appellate Tribunal shall be constituted by the Government by notification and the same shall consist of Chairman, Vice-Chairman and a Member. Section 77(C)(4) prescribes the qualification for appointment of Chairman, Vice-Chairman and Member. It is true that no time limit is prescribed for exercising the suo-moto revisional power by the Special Appellate Tribunal. However, two different period of limitation is prescribed for preferring revision, firstly by the Government through the person appointed by Commissioner of Land Reforms and secondly, by the individual person aggrieved by the order sought to be revised. As far as Government is concerned the revision shall be filed by the person authorised and the sanction order shall accompany the application for revision. In this case, the application for revisions was originally filed before the Special Appellate Tribunal by the Director of Land Reforms and the application for revision was accompanied by an authenticated copy of the order dated 23.07.2001, in under which the Director of Land Reforms was authorised to file revision petition under Section 83 before the Special

Appellate Tribunal. Though, in the order dated 23.07.2001, it is stated the permission is granted to file suo-moto revision, the revision petitioner cannot take shelter under the same for explaining the limitation aspect for the following reason : The Section is very clear that suo-moto power can be exercised only by the revisional authority i.e, Special Appellate Tribunal constituted under Section 77(C) consisting of Chairman, Vice-Chairman and member and such power cannot be exercised either by Commissioner of Land Reforms or Director of Land Reforms. It is only when the revision is filed by the Government, the same can be filed through the authorised person along with the order authorising him to file the revision petition. The order dated 23.07.2001 enclosed along with revision petition would amply go to show that it is the revision filed by the Government through the Director of Land Reforms. In that event, the limitation prescribed for filing such revision is ninety days from the date of receipt of communication of the order. The clause 4 of the application for revision reads the date of receipt of the order to be challenged is on 02.01.1997, however, the clause 7 reads that as it is suo-moto revision no limitation is prescribed. As rightly argued by the learned counsel for the respondent, the present revision is filed by the Government, the same ought to have been filed within ninety days

from the date of communication of the order i.e, within ninety days from 02.01.1997.

14. Though the order was admittedly received by the Government on 02.01.1997, the revision was admittedly filed on 17.09.2001 which is beyond four years from the date of receipt of the impugned order. That is why, the revision papers were on the first occasion returned by the Special Appellate Tribunal on 24.9.2001, for being filed with an application along with supporting affidavit to condone the delay in filing the revision and the papers were represented without complying with the main defect. There again, arose delay in representation and the application for revision was again returned for filing petition for condoning the delay both in filing revision as well as delay in representing the papers. The papers were again represented on second occasion only along with an application to condone the delay in representation and no application was filed to condone the delay in filing the revision. After the same was transferred to the High Court, the High Court also numbered the petition without verifying this aspect and admitted the revision. The conduct on the part of the Government/Revision Petitioner in not filing any application to condone the delay in filing revision petition is contrary to the procedure laid

down under Section 83 and Rules 26(5) and 29(7). When under Rule 29(7), the application for revision cannot be admitted unless the petition accompanied with an affidavit explaining the reasons for delay is heard in the presence of both parties and unless the revisional authority satisfied about the sufficient cause for not filing the revision within the time prescribed, the failure to adopt such procedure goes to the root of the maintainability of the main revision petition. The revision petition having been hopelessly barred by limitation and the delay in filing the revision having not been explained and condoned in accordance with the procedure laid down under the Act and Rules the revision petition is legally not maintainable and the revision petition is liable to be dismissed.

15. On merits, it is throughout the contention of the department that the transaction by the son in favour of the mother was hit by Section 22. Whereas, according to the individual the same falls under Section 21(A)(a) of the Act. The High Court has on the first round of litigation clearly held that the deed of settlement was executed by the son in favour of his mother in lieu of her right of maintenance in the estate of her husband. The High Court also held that the transactions are genuine in nature and the findings of the authorised officer that the

same are bogus, are hence set aside by the High Court. In spite of such specific finding by the High Court before remand, the authorised officer after remand again held that the transactions are void and hit by Section 22. Whereas the Land Tribunal has rightly excluded the extent covered under the transactions made in favour of the mother and the extent covered by coconut thope from the holdings of the third respondent/individual. It is held so by Land Tribunal by duly applying Section 14(1) of the Hindu Succession Act that the mother who was under settlement given restricted right in lieu of her maintenance by virtue of Section 14(1) of Hindu Succession Act, 1956 become full owner of the extent in question and the same cannot be included in the holdings of the son. The Land Tribunal has thus rightly brought the transactions under Section 21(A)(a) and held the same to be valid and not hit by Section 22.

16.As far as the extent covered under coconut thope is concerned there is sufficient material in the form of the report of the competent official and statement of the local Ex.Karnam to show the existence of old coconut thope for 30-40years in an extent of 5.41 acres and the same was duly filed by the Special Revenue Inspector along with his report dated 10.05.1973 and the same was duly

submitted to the authorised officer but omitted to be considered by authorised officer. When the same was brought to the notice of the Land Tribunal in the second round of litigation, the same was given due reliance and importance and the extent in question was rightly excluded from the holdings of the son. It is not in dispute that excluding the extent covered under the settlement in favour of the mother and the extent covered under coconut thope, the holdings of the son is much below the surplus limit, as such, the Land Tribunal has rightly held that no surplus is available in the hands of the son to be declared as surplus and the relevant provision of the Act, 1961 is hence not attracted. As the findings of the Land Tribunal are by applying correct provision of law based on sufficient material and are supported by proper reasoning, this court finds no infirmity or illegality in the order so passed by the Land Tribunal and the same requires no interference in this revision.

17. One more aspect drawn to the attention of this Court is that throughout both the mother and son independently contested the order of authorised officer passed under Section 22 holding the settlement made by the son in favour of his mother as void and hit by section 22 and holding such extent as surplus in the hands of the son.

Both the mother/Solaiammal and son/Rangasamy filed LTA.Nos.140 and 141 of 1974 and CRP.Nos.2489 and 2490 of 1975 in the first round of litigation. Both the mother and son preferred LTA.Nos.24, 25 and 26 of 1996 against the order of the Authorised Officer after remand and all the three appeals were disposed of by common order dated 31.12.1996 by the Appellate Authority-cum-Land Tribunal. In all the appeals the Authorised Officer and the Assistant Commissioner (land reforms) were impleaded as the respondents. Whereas, single Civil Revision Petition is filed against the common order made in three appeals dated 31.12.1996, that too without impleading the mother/Solaiammal as one of the respondents herein. On their failure to prefer any separate revision against the order made in the appeal filed by the mother/Solaiammal and on their failure to implead mother/Solaiammal as one of the respondents herein, the revision petitioner cannot be permitted to question the correctness of the findings made in favour of the mother/Solaiammal in respect of the transactions effected in her favour in this revision and the revision petitioner who having allowed the order made in the appeal preferred by the mother cannot be permitted to question the findings in favour of the mother in this revision preferred by the son.

18.Viewing from any angle, the impugned order dated 31.12.1996 cannot be found fault with and the revision petitioner is hence disentitled to get any relief in this revision petition.

19.In the result, the Civil Revision Petition is dismissed. No costs.

**31.07.2015.**

Index : Yes/No  
Internet : Yes/No  
tsh

To

- 1.The Director of Land Reforms, Chepauk, Chennai-5.
- 2.The District Revenue Officer, (Land Tribunal), Chennai-5.
- 3.The Assistant Commissioner, (Land Reforms), Erode.

**K.B.K.VASUKI, J.,**  
tsh

**CRP.No.1984 of 2003**

**31.07.2015.**