



CRP(MD)No.1915 of 2003

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(MD)No.1915 of 2003 and
CMP(MD) No.14267 of 2003

Macbara Trust, Mandapam,
Ramanathapuram District
Rep by its Trustee,
Haji P.R.MKM. Mohammed,
Abdul Khader Marakayar,
Marakayar Mahal,
Mandapam,
Ramanathapuram

... Petitioner

Vs

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

2.The Sub Collector and Authorised Officer,
(Land Reforms),
Paramakudi.

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside the order of the first respondent Land Tribunal (District Revenue Officer, Chennai, dated 29.01.2001 in A1/11/2001 rejecting



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the Appeal against the order of the second respondent, the authorised officer & Assistant Commissioner (Land Reforms) Madurai, dated 21.07.1999 in A-3/MR-I/12M/RAM/37-72 and to set aside the said order of the authorised officer and Assistant Commissioner (Land Reforms), Madurai.

For Petitioner : Mr.T.M.Hariharan
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

This Civil Revision Petition is filed as against the order passed by the first respondent, District Revenue Officer, Chennai in A1/11/2001 dated 29.01.2001, rejecting the appeal filed by this petitioner against the order passed by the second respondent in A3/MR-I/12M/RAM /7/72 dated 26.07.1999.

2.By the order impugned in this Civil Revision Petition, the first respondent rejected the appeal filed by the petitioner, on the ground that it was filed beyond the period of limitation and aggrieved over the same, this present Civil Revision Petition is filed.



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3.The case of the petitioner is that the petitioner Trust is a Public Religious Charitable Trust, which was established in the memory of the wife of one Khan Bahadur Kasim Mohammed Marakayar and it comes under the supervisory control of the Tamil Nadu Wakf Board. The objects of the Trust are recitation of Quoran every day, to make payment to Hajims, to feed the poor and to impart training in Arabic language and Islamic tenets. As on 01.03.1972, the petitioner Trust was in possession of 90.70 ordinary acres of land equivalent to 37.83 standard acres of land in A.Puthur Village and Komukkottai Village of Paramakudi Taluk. The holdings of the Trust was taken up for consideration by the then Authorised Officer, under the Tamil Nadu Land Reforms (Fixation of Ceiling Limit) Act 58/61 as amended by Act 37/72 and held that the Trust is a public Trust of religious nature and exempted the Trust from the operation of the above Act. As the lands were not yielding income, the then Trustee moved the Wakf Board to sell the lands by way of auction and accordingly, an extent of 39.38 acres of land has been sold by auction sale conducted on 11.04.1977 and



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thereafter, the petitioner Trust is in possession of the remaining 51.32 acres of land. Subsequently, the second respondent re-examined the case of the petitioner, considering the objects of the petitioner Trust has held that as the petitioner Trust is purely charitable in nature and hence it is eligible to hold only 5 standard acres and passed an order, dated 29.03.1993, under Rule 11(1) (h) of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1962, declaring an extent of 32.83 standard acres of land as surplus. As against which, the petitioner preferred an appeal in LTCMA.12/93, before the Land Tribunal, Thanjavur and the Land Tribunal, by its Judgment dated 28.10.1994 set aside the order of the Authorised Officer & Assistant Commissioner, Land Reforms, dated 29.03.1993, remanding the matter back to the Assistant Commissioner to pursue the matter as per the procedure laid down under the Act, as such, the Assistant Commissioner has passed an order dated 21.07.1999, declaring an extent of 32.83 standard acres of land of the petitioner Trust as surplus. Challenging the same, the petitioner herein preferred an appeal before the Land Tribunal, Chennai



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on 05.01.2000 and the same was rejected by the Land Tribunal on the ground of limitation, vide its endorsement in A1/11/2001, dated 29.01.2001. Aggrieved over the same, the present Civil Revision Petition is filed.

4.The learned counsel appearing for the petitioner submits that as against the order dated 28.07.1999, declaring that the petitioner Trust is eligible to hold only five standard acres of land, within the ceiling area, as per Section 5(1) (d) (I) of the Act, the petitioner trust filed an application in the form of Review before the second respondent herein on 10.08.1999 and that representation/review was returned by the second respondent on 07.10.1999, with an endorsement that the petitioner has to work out his remedy by way of an appeal before the first respondent. Therefore the petitioner has filed the appeal before the first respondent on 05.01.2000 and it was returned on 03.04.2000 for want of requisite court fee. Hence, the petitioner re-presented the same on 10.01.2001 along with necessary Court fee. But, the first respondent



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has dismissed the appeal under the pretext that it was filed only on 10.01.2001. The learned counsel further submits that if the period for limitation is calculated from 07.10.1999, on the date, on which, review application was returned by the second respondent, the appeal preferred by the petitioner can be construed as it was filed well within the limitation period as per the Act. Hence, he prays to set aside the order impugned in this Revision Petition.

5.The learned Additional Government Pleader appearing for the respondents submits that the petitioner Trust has filed the appeal only on 10.01.2001, prior to which, it was filed without affixing the necessary Court fee and therefore, the first respondent has rightly dismissed the petition on the ground of non-affixing of necessary court fee. In the absence of necessary court fee, the appeal preferred by the petitioner on 05.01.2000 cannot be construed as a proper presentation, in the eye of law. Hence, there is no necessity to interfere with the order of the Tribunal.



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6.This Court considered the rival submissions made on either side and perused the materials placed on record.

7.The issue for consideration in this Civil Revision Petition is whether the order passed by the first respondent on the appeal, preferred by the petitioner Trust that it was barred by limitation is correct or not. On perusal of the records shows that the petitioner Trust filed a representation to review on 10.08.1999 and it was returned with an endorsement that the available remedy to the petitioner was to prefer an appeal before the District Revenue Officer, Chennai and accordingly, the appeal was also filed before the authority on 05.01.2000 and it was returned on the ground of deficit court fee. Subsequently, it was re-presented on 10.01.2001 with requisite court fee. But the authority has rejected the appeal preferred by the petitioner Trust on the ground of limitation, considering the date of filing of the appeal as 10.01.2001. According to the learned counsel for the petitioner, the period of



limitation as per Section 78 of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 is 90 days and the relevant provision under Section 78 of the Land Reforms Act is extracted as under:-

78. Appeal to Land Tribunal:-

- (1) Against any decision of the authorized officer under Section 9(2)(b), 10(3), (4), (5), 16(3) (a) (iii), 20, 22, 50(4), 51(1), (2), 52, 61(3)(b) or 102(2) (b), the Government may, within ninety days from the date of the decision, and any person aggrieved by such decision, may (within thirty days) from the date of such decision, appeal to the Land Tribunal.
- (2) The Land Tribunal may admit an appeal presented after the expiration of the period mentioned in sub-section (1), [but not exceeding thirty days], if it is satisfied that the party concerned had sufficient cause for not presenting it within the said period.
- (3) On receipt of an appeal under sub-section (1), the Land Tribunal, after giving the parties a reasonable opportunity of being heard, shall -
 - (a) determine a case finally:
 - (b) remand a case



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(c) take additional evidence or require such evidence to be taken by the authorised officer.

8.The second respondent by order dated 21.07.1999 has declared 32.83 acres as surplus, against which, the petitioner is having an appeal remedy before the Land Tribunal as per Section 78 of the Tamil Nadu Land Reforms (Fixation of Ceiling Limit) Act. However, the appeal has to be preferred within a period of thirty days. The petitioner, instead of filing an appeal before the Land Tribunal, has filed a review by way of a representation before the second respondent on 10.08.1999 and the same was rejected by the second respondent on 07.10.1999. Thereafter, the petitioner has preferred an appeal before the Land Tribunal on 05.01.2000. Though the petitioner claims that he has filed the above appeal before the Land Tribunal within 90 days from the order of the second respondent dated 07.10.1999, the petitioner ought to have filed the appeal within 30 days. This application was also filed without sufficient Court fee and therefore, the application filed on



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05.01.2000 was returned for insufficient Court fee and was re-presented on 10.01.2001. The Tribunal considered the date of filing on 10.01.2001 with proper Court fee and rejected the appeal.

9. There is no provision for review, however, the petitioner claims that he has filed a review wrongly and the review was dismissed on 07.10.1999. Therefore, this Court was under the impression that the petitioner has wrongly preferred a review and on the representation of the petitioner that the limitation is 90 days and that he has filed the above application within 90 days from the date of rejection of review by the second respondent, was inclined to allow this revision petition. However, on a closure look, it appears that this petitioner has submitted a representation on 10.08.1999 and the same was rejected on 07.10.1999. The period of limitation as per Section 78 of the Tamil Nadu Land Reforms (Fixation of Ceiling Limit) Act is only 30 days and for Government, it is 90 days. However, it was projected as if it is filed within the limitation of 90 days from the date of rejection of review by



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second respondent. There is no scope for appeal, if it is filed beyond 30 days from the date of decision, in the absence of any statutory provision enabling for condonation of delay.

10. For the foregoing reasonings and discussions, this Court is not inclined to entertain this civil revision petition and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

13.03.2023

Index : Yes / No.

Internet : Yes / No.

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B.PUGALENDHI, J.

vrn/gk

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