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W.A.(MD) No.657 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.10.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.657 of 2019

S.V.S.Natarajan (Died)
Managing Director
Tuticorin Sea Food (P) Ltd.,
71/1, Toovipuram Main Road
Thoothukudi-628 003

1.C.Selvin Prabhu
Director
Nila Mines (P) Ltd.,
137, Pudurpandiapuram
Thoothukudi-628 002

... Appellant

-vs-

1.The State of Tamil Nadu
rep.by Secretary to Government
Department of Revenue
(Land Reforms)
Fort St.George
Chennai-9



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2. Authorized Officer /
Assistant Commissioner
Land Reforms
Tirunelveli

... Respondents

[Cause title accepted *vide* order dated
24.04.2019 in C.M.P.(MD) No.4113 of 2019]

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 28.06.2016, passed in W.P.(MD) No.5336 of 2008, on the file of this Court.

For Appellant : Mr.G.Prabhu Rajadurai

For Respondents : Mr.S.Kameswaran
Government Advocate

J U D G M E N T

[Judgment of the Court was made by V.LAKSHMINARAYANAN, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 28.06.2016, passed in W.P.(MD) No.5336 of 2008.

2. The appellant – Company had purchased around 95.95 Ordinary Acres of land at Vembar Village, Vilathikulam Taluk, Thoothukudi District, between the period from 1992 to 1994. It had proposed to start a prawn culture farm over the said land. Since the Supreme Court had banned



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prawn culture, the appellant abandoned that idea and wanted to start salt pans over the same. On this basis, it applied for exemption. Subsequently, it decided to convert the land into a cashew plantation. But, the cashew plants withered away. Therefore, the appellant decided to restore the land for growing firewood trees. On that basis, it applied for exemption under the Tamilnadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (hereinafter, referred as “the Act”). The exemption was refused since under Section 73(viii) of the Act, firewood trees should have been on the land on the date of commencement of the Act. The Act came into force on 06.04.1960 and admittedly, on that date, the appellant was neither the owner of the land nor evidence was given that there were firewood trees over the land for which exemption sought for.

3. Taking into consideration the changing of stands by the appellant from prawn culture to salt pan to cashew plantation and finally growing firewood trees, the Government decided to reject the application for exemption and held that the appellant is entitled only to 60.00 Standard Acres of land and declared the remaining 35.95 Ordinary Acres of land as surplus. This order was passed by the second respondent on 03.09.2003. Challenging



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the same, the writ petition was filed on 30.04.2008, which came to be dismissed on 28.06.2016.

4. Mr.G.Prabhu Rajadurai, learned counsel appearing for the appellant, would argue that the order of the second respondent is vitiated as it is contrary to Order XX Rule 5A of the Code of Civil Procedure (in short, “C.P.C.”) as it did not state to which appellate authority appeal lies. We are afraid this submission is one in vain, because the Authorized Officer is not the Civil Court within the meaning of C.P.C.

5. Facing the above difficulty, Mr.G.Prabhu Rajadurai, learned counsel, would argue that we have to apply Section 5 of C.P.C. Section 5 of C.P.C., applies to Revenue Courts and not to the authorities under the Land Reforms Act. As to which Courts are covered as Revenue Courts is given under Section 5(2) of C.P.C. A Revenue Court for the purpose of Section 5(1) should be the Court, empowered by a local law, to entertain suits or other proceedings relating to rent, revenue or profits of land used for agricultural purposes. An Authorized Officer under the Land Reforms Act does not deal with rent or revenue or profits relating to agricultural purposes. He deals with



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the basic issue as to whether the holdings of the person to whom notices have been issued under the Land Reforms Act, are in excess or within the permitted limits. Apart from that, he is not a Court created under a statute. Therefore, the argument that Section 5 of C.P.C will apply to an Authorized Officer, has to necessary fail. The issue as to which Revenue Court fall within the gamut of Section 5(2) of C.P.C had been elaborately dealt with in the case of ***Bijai Narain Singh and others Vs. State of U.P.*** reported in ***AIR 1970 All 241 (FB)***. We respectfully adopt the approach of that Court set forth in paragraph nos.33 and 34 of the said order.

6. Mr.G.Prabhu Rajadurai would then turn to Rule 11 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Rules, 1962 (hereinafter, referred as “the Rules”) and state that it has clothed the authorized officer with the power of the Civil Court and therefore, C.P.C., would apply to the authorized officer. A careful reading of Rule 11 of the Rules shows that the authorized officer has been clothed with certain power available to Civil Courts for the purpose of determining the issues that are raised before him. That does not convert an authorized officer into a Civil Court to be covered by all the provisions of C.P.C.



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7. We have taken notice of the fact that the order impugned in the writ petition was passed in the year 2003, but the writ petition itself came to be filed only in the year 2008. There is absolutely no explanation for the period of five years as to why the appellant did not file an appeal before the land tribunal as against the said order. This raises a doubt as to whether the appellant wants to convert the writ petition into an appellate remedy.

8. Apart from the aspect of laches, even on the merits of the case, the appellant has been consistently changing its stand from one project to another to somehow or the other to extricate the lands from the provisions of the Land Reforms Act, which in itself is a measure to achieve agricultural equality on land holding, an avowed object of Article 14 of the Constitution of India.

9. Apart from all these, the power to grant exemption lies only with the Government. The jurisdiction under Article 226 of the Constitution of India is only to see whether the Government has applied its mind to the facts of the case and has come to a proper conclusion. The jurisdiction under



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Article 226 of the Constitution of India is visitorial or supervisory. We are concerned only with the decision making process and not with the decision itself. On the decision making process, we do not find any error and therefore, we are not in a position to concur with the arguments of Mr.G.Prabhu Rajadurai.

10. In fine, this writ appeal is dismissed and the order of the learned Single Judge dated 28.06.2016, passed in W.P.(MD) No.5336 of 2008, stands confirmed. No costs.

[S.M.S., J.]

[V.L.N., J.]

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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

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Department of Revenue,
(Land Reforms),
State of Tamil Nadu,
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- 2.The Authorized Officer /
Assistant Commissioner,
Land Reforms,
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