

Krishnaswami Mudaliar Vs. the Authorized Officer (Madras Land Reforms) Cuddalore

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Court : Chennai

Decided On : Dec-04-1972

Reported in : AIR1973Mad453; (1973)2MLJ25

Judge : Kailasam, J.

Acts : Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 - Sections 8, 10(1), 10(3), 10(4), 10(5) and 12

Appeal No. : Civil Revn. Petn. No. 138 of 1972

Appellant : Krishnaswami Mudaliar

Respondent : The Authorized Officer (Madras Land Reforms) Cuddalore

Judgement :

ORDER

1. The appellant in C. M. A. 17 of 1971 on the file of the court of the Subordinate Judge (Land Tribunal), Cuddalore, is the petitioner. He filed an objection petition before the authorized officer, Land Reforms, Cuddalore, praying that the land which he purchased from one Papayee Ammal may be included within the ceiling area of the said Papayee Ammal. The petitioner purchased the land from Papayee Ammal on 21-11-1962. The notified date was 2-10-1962. The plea of the petitioner is that so far as the extent of the land purchased by him is concerned it should be

included within the ceiling area of Papayee Ammal. The authorized officer held that as the sale in favor of the petitioner was after the notified date, he will not recognize it and that the request of the petitioner that the said extent should be included within the ceiling area of Papayee Ammal has to be rejected.

2. Section 8 of the Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 requires that a person holding land in excess of 30 standard acres should furnish a return. Several particulars are required under this section. Section 8(1)(viii) requires the person holding land in excess of 30 standard acres to give particulars of the land which he desires to retain within the ceiling area and the land which he desires to be declared as surplus land. The authorized officer in preparing and publishing the draft statement as regards the land in excess of the ceiling area is required to state under Section 10(1)(viii) the particulars of the land which such person desires to retain within the ceiling area and under Section 10(1)(xii) the particulars of land proposed to be declared as surplus land. Section 10(3) provides that if any person has failing to specify the particulars of the land which he desires to retain within his ceiling limit the authorized officer shall, as far as practicable specify in the draft statement, the land which is capable of easy and convenient enjoyment as the land to be retained by such person within his ceiling area.

If any person has specified the particulars of the land which he desires to retain within his ceiling area., Section 10(4) provides that the authorized officer shall, as far as practicable, declare the same land as comprised within his ceiling area. There are three provisos to this sub-section, requiring the authorized officer as far as possible to declare the land stated by the holder to be within his ceiling area. The first proviso relates to the allotment of land to the holder when that person had diminished by willful act the utility of the land. The second proviso relates to declaration of the share of any person in the land held by an agricultural company. The third proviso requires that the authorized officer shall as far as practicable declare the land which is capable of easy and convenient enjoyment. The three provisos do not deal with the allotment of any land that had been assigned by the holder to a third party, either before or after the notified date. But Section 10(5) confers certain powers on the authorized officer. It provides that after the draft statement is published a copy thereof shall be served on the persons concerned

the tenants, creditors and all other persons who in the opinion of the authorized officer are interested in the land to which such draft statement relates, together with a notice stating that any objection to the draft statement shall be preferred within 60 days from the service of such notice.

The authorized officer is empowered to consider the objection received and to pass such orders as he deems fit. Section 10(5) contemplates notice to all persons interested in the land to which the draft statement relates. The draft statement relates not only to the ceiling area determined by the authorized officer but it also relates to the area which is placed outside the ceiling area of the person concerned. A person who has purchased a property either before or after the notified date will have an interest in the land and as such he is a person entitled to notice under Section 10(5). No doubt, Section 23 provides that the authorized officer shall not take into consideration any transfer effected on or after the notified date and before the date of the publication of the final statement under Section 12 or 14. The effect of this provision will be that the authorized officer will not exclude that area from the holding of the person who submits a return under S.8.

The question is whether under Section 10(5) the authorized officer is entitled to hear the objection that may be raised by a transferee after the notified date and pass such orders as he deems fit after hearing it. If the objection of a purchaser after the notified date has to be completely ignored, there is no point in Section 10(5) requiring the objections to be received from the objectors and passing orders after hearing the objections. The intention of Section 10(5) obviously is to hear the objections and to pass orders after considering their interests. In this view, the authorized officer would be acting within his power if he allots the land that had been assigned to a third party after the notified date for valuable consideration within the ceiling area of the person submitting the return. Section 78 provides for appeal against an order passed by the authorized officer under Section 10(5) by the Government or by any person aggrieved by any such decision. The effect of Section 10(5) and Section 78 is obviously to protect the interests of persons interested in the land described in the draft statement made by the authorized officer.

3. In C. R. P. No. 318 of 1968 (Mad.). A. Mohamed Ibrahim v. Authorized Officer, Cuddalore, this court has held that a person who has purchased a property after the notified date is a person interested under Section 10(5) of the Act and the non-issue of notice under Section 10(5) would vitiate the proceedings. On behalf of the Government the decision in Kaliaperumal Nattar v. Authorized Officer. Land Reforms, (1969) 82 MLW 561 was relied on. In that case not only was the draft notification made but the authorized officer published the final statement under Section 12. After the lands were proposed to be taken for a public purpose, the purchaser objected. Thus it will be seen that the authorized officer had no notice of the transfer, when he made the draft statement or proceeded to give notice under Section 10(5) of the Act. The decision in that case that the transfer by a person holding land in excess of the ceiling area after the notified date should not be taken into account has to be confined to the facts of that case.

4. In the above circumstances, the authorized officer ought to have considered the plea of the petitioner that the land which he purchased should be included within the ceiling area of Papayee Ammal. This petition is therefore allowed and the matter is remanded to the authorized officer for disposal of the objection petition according to law. There will be no order as to costs.

5. Petition allowed.