Supreme Court of India
Land Commissioner vs Manjiya Pillai on 30 March, 1994
Equivalent citations: 1994 SCC, Supl. (2) 464
Author: S Agrawal
Bench: Agrawal, S.C. (J)

PETITIONER:
LAND COMMISSIONER

Vs.

RESPONDENT:
MANJIYA PILLAI

DATE OF JUDGMENT30/03/1994

BENCH:
AGRAWAL, S.C. (J)
BENCH:
AGRAWAL, S.C. (J)
SAHAI, R.M. (J)

CITATION:
1994 SCC Supl. (2) 464

ACT:

HEADNOTE:

JUDGMENT:

ORDER

1. This appeal arises out of proceedings taken under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. Section 50 of the said Act makes provision for determination of compensation for the surplus land acquired by the Government under the provisions of the said Act. The provisions of Section 50 which are relevant for our purposes are contained in sub-sections (9) and (IO) which read as under:

> "(9). The authorised officer may, if he is satisfied either of his own motion or on the application of any of the parties that a bona fide mistake has been made in regard to any entry in the draft assessment roll or in the assessment roll as published finally make necessary correction therein and on such correction being made, the provisions of sub- sections (3) to (8) shall, as far as may be, apply thereto.

> (10) Notwithstanding anything contained in sub-section (9), the authorised officer may at any time correct either of his own motion or on the application of any of the parties any clerical or arithmetical mistake in regard to any entry in the draft assessment roll or in the assessment roll as published finally."

2. An extent of 8.49 acres of land in Siramel Kudi Village, Pattukottai Taluk, Thanjavur District was declared as surplus and the amount of compensation for the same was determined as Rs 9353.04p. In accordance with the said determination the final assessment roll under Section 50(9) of the Act was published on 5-6-1974. Subsequently it was brought to the notice of the authorised officer that an extent of 3.67 acres of the said surplus land was lying waste continuously for five years prior to the date of the publication of the notification under Section 18(1) of the said Act and on that basis the authorised officer, exercising the power under Section 50(9) of the Act, reduced the amount of compensation to Rs 4387.68p on the view that a bona fide mistake had been committed in the determination of the compensation earlier. The said order of the authorised officer was upheld in revision by the Land Commissioner but on a writ petition filed by the respondent the learned Single Judge of the Madras High Court set aside the said order on the view that under Section 50 the authorised officer could not reopen an assessment that has been finalised and determined as per Schedule III except on the ground of a clerical or arithmetical mistake and that a bona fide mistake in regard to any entry cannot take within its amplitude correction of mistakes on merits. In taking the said view the learned Single Judge has placed reliance on an earlier judgment of a Single Judge of the High Court in R.V. Appaswamy v. Authorised Officer (Land Reforms) Kovilpattil. The learned Single Judge has also observed that the 1 (1982)1MLJ219 proceedings for determination of the compensation had been completed and finalised in 1974 and they were sought to be reopened after a lapse of five years. The said view of the learned Single Judge has been confirmed in appeal by a Division Bench of the High Court.

3. We have heard learned counsel for the parties, mainly on the question whether expression "bona fide mistake" in Section 50(9) should be construed as confined to clerical or arithmetical mistakes only. Having regard to the provisions contained in Section 50(10) which expressly makes provision for correction of clerical or arithmetical mistakes, we are unable to construe the expression "bona fide mistake" in sub-section (9) of Section 50 to mean that it is confined to clerical or arithmetical mistake. Such a construction would render the provisions of Section 50(9) otiose. In our opinion" it would be permissible for the competent authority to exercise the power conferred under Section 50(9) in cases where a bona fide mistake has been committed while passing orders on merits. We are, therefore, unable to agree with the view of the learned Single Judge as well as of the Division Bench of the High Court in this regard and the said view is, therefore, set aside. But having regard to the facts and circumstances of the present case, we are not inclined to interfere with the ultimate order that has been passed by the High Court. Hence, the appeal is dismissed.

4. We have been informed that costs have already been paid in accordance with the order passed by this Court on 13-12- 1989. No further directions are, therefore, necessary in this regard.