



LAND TRIBUNAL UNDER THE TAMILNADU LAND

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1. INTRODUCTION:

The Tamilnadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 is an important piece of agrarian legislation. This Act is mainly enacted for fixing a ceiling on the holdings of agricultural lands and provides for the acquisition of surplus lands and then distributes those lands to landless people and also deals with other matters connected therewith in the state of Tamilnadu.

2. OBJECTIVE OF THE ACT:

The objective of the Act is pointed out in the preamble itself. The main aim of the Act is to fulfil the provisions as provided under the Article 39 of the Indian Constitution. Article 39 states that certain principles of policy to be followed by the State:¹

The state shall, in particular, direct its policy towards securing-

- (b) That the ownership and control of the material resources of the community are so distributed as best to sub-serve the common good;
- (c) That the operation of the economic system does not result in the concentration of wealth and means of production to common detriment;

Thus the preamble of the Act tries to fulfil the above clauses of the

Article 39 (b) and (c) ² of the Indian Constitution. It is also pointed out in the case *State of Tamil Nadu v. Narendra Dairy Farms (P) Ltd.*,³ that "the land ceiling Act has been enacted to give effect to the Directive Principles of State Policy in the Article 39 of the Indian Constitution."

The preamble further states, that earlier the agriculture lands was with the few people alone and they were cultivating the land by giving some wages to the cultivating tenant.^{4 5} But the rivalry

² Ibid.

³ AIR 1981 Madras 161.

⁴ The Cultivating Tenant is defined under section 2(aa) of the Tamil Nadu Cultivating Tenants Protection Act, 1955- "cultivating tenant" -

- (i) means a person who contributes his own physical labour or that of any member of his family in the cultivation of any land belonging to another, under a tenancy agreement, express or implied; and
- (ii) includes-
 - (a) any such person who continues in possession of lire land after the determination of the tenancy agreement;
 - (b) the heir of such person, if the heir contributes his own physical labour or that of any member of his family in the cultivation of such land;
 - (c) a sub-tenant if he contributes his own physical labour or that of any member of his family in the cultivation of such land; or
 - (d) any such sub-tenant who continues in possession of the land riot withstanding that the person who sublet the land to such sub-tenant ceases to have the right to possession of such land; but
- (iii) does not include a mere intermediary or his heir;

Explanation. - A sub-tenant shall be deemed to be a cultivating tenant of the holding under the landlord if the lessor of such sub-tenant has ceased to be the tenant of such landlord;]

¹ INDIA CONST. Art. 39, cl.(b) and (c).



started from here. The landowners started to exploit their cultivating tenants by providing low wages and also started to evict their cultivating tenants without any reasons. And hence in order to protect the tenants, some measures are taken on the part of the government. They are:

1. The government started to acquire the surplus lands i.e. the excess lands are acquired from these landlords and distributed them to the poor people who are not having any source of income.
2. In order to protect the cultivating tenants from unreasonable eviction The Tamil Nadu Cultivating Tenants Protection Act, 1955 was enacted. This was enacted to safeguard the tenants from unreasonable eviction of landlords.

Thus the Tamilnadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 was enacted in order to reduce these disparities prevailing among the landlord and the tenants. Land should not be concentrated on certain people. This will lead to disparity and hence for this purpose, it is necessary to fix a ceiling on agricultural holdings and acquire the agricultural land in excess of the ceiling area and it must be distributed to the landless people. By this way of distribution, it will sub-serve the common good, increase agricultural production and promote social and economic justice.

Thus the prime object of the Act is to get the excess of lands and to distribute to the landless people in order

to sub-serve the common good, increase agricultural production and promote social and economic justice.

3. SALIENT FEATURES OF THE ACT RELATING TO LAND TRIBUNAL:

- 1) The Act comprises of Land Board⁶ under Chapter V headed with a land Commissioner, Chief Conservator of Forests, the Director of land Reforms and two non-official members, nominated by the Government. All the above said members are ex-officio members except the two non-official members as per section 24. The Tamil Nadu land board is also vested with the power of deciding the question of future acquisition of land.
- 2) It has also constituted a tribunal called Land Tribunal under the section 76, 76A, 77, where these sections deal with the constitution, powers, and jurisdiction of land tribunals respectively.
- 3) The Act also constitutes a Special Appellate Tribunal (section 77(c)) under the Chapter X A under Article 323B of the Constitution of India vested with the power of hearing appeals and also revising the orders passed by the Land Tribunal.
- 4) As in the other tenancy laws, the jurisdiction of the Civil Courts is ousted with respect to any matter which is to be decided or dealt with by the authorised officer, the land board, the Land Commissioner, the Land Tribunal or the Special Appellate Tribunal- Section 77G.⁷
- 5) Chapter XI deals with the appeal to Land Tribunal and Special Appellate tribunal,

⁵ The term "Cultivating tenant is also defined under the section 3(10) of the Tamilnadu Land Reforms (Fixation of Ceiling on Land) Act, 1961.

⁶ Section 3(23) -"Land Board" means the Tamil Nadu Land Board constituted under Section 24.

⁷ PROF. CHANDRASEKARAN.A, LAND LAWS OF TAMIL NADU, (2nd ed. 2002).



Revision by the land Commissioner and Special Appellate Tribunal and power to stay the execution of an order.

4. DEFINITION OF LAND TRIBUNAL UNDER THE ACT:

The Section 3 of the Act deals with the definition clause of the Act. This section has nearly 47 clauses by defining various terms.

The term tribunal is defined under the Section 3(2b). "Land tribunal means a land tribunal constituted under section 76."

Thus land tribunal is very important for dealing of cases which comes under the per-view of this Act.

5. LAND BOARD:

Before appearing for the tribunal the Land Board does the initial methods necessary for going into the tribunal. The Land Board is constituted according to the Chapter V of the Act. This chapter deals with the constitution and functions of the Land Board. Section 24 speaks about the constitution of the Tamil Nadu Land Board.

The Land Board consists of-

- i. The Land Commissioner,⁸ ex-officio;
- ii. The Chief Conservator of forests, ex-officio;
- iii. The Director of Land Reforms, ex-officio;
- iv. Two non-official members, nominated by the government.

The member referred above will be the chairmen of the Land Board and shall be a gazetted officer nominated by the Government.⁹ The term of office

for the above members is three years and he is also entitled to re-nomination.¹⁰ It is also to be noted that if the above member is said to be absent from the meetings for a period of three consecutive months then he is deemed to have vacated his office.¹¹ At the same time if a member wanted to resign from this post then he can submit a letter in writing to the land commissioner.¹² Then that vacancy will be filled by a fresh nomination.¹³

5.1 FUNCTIONS OF THE BOARD:

One of the major functions for the Land Board is that the board is vested with the power of granting permission of acquiring the excess of lands. But when the landowner wants the surplus plus lands for the cultivation or plantation purposes or for other ancillary purposes then the owner must apply for the permission of the Land Board in order to retain his lands.

After considering the permission letter, the Land Board goes for an enquiry whether the landowner is true in this work and whether he needs the land for cultivation or for plantation purpose or for any other ancillary purposes.¹⁴ After looking to this if the Land Board is satisfied in the sense then they give permission to the landowner for such purposes.¹⁵ At the same time, the extra land is given up-to 20% and not more than that.

¹⁰ Section 24(4) (a).

¹¹ Section 24(4) (b).

¹² Section 24 (5).

¹³ Section 24(6) (a).

¹⁴ Section 3(4) - defines "Ancillary purposes."

¹⁵ Section 31.

⁸ Section 3(24)- "Land Commissioner" means the Land Commissioner appointed under section 97
⁹ Section 24(3).



While deciding the question of granting permission or refusing permission, the Land Board will take into consideration the following matters:-

- i. The area under plantation and area required for ancillary purposes of the plantation;
- ii. Programme for extension of the plantation;
- iii. Lands necessary for factories, labour quarters, play-grounds, hospitals, schools, and other ancillary buildings;
- iv. Such other matters as may be prescribed.

On the following grounds, the Land Board may cancel the permission granted under section 31. The grounds are:-

- i. Breach of conditions specified by the Land Board;
- ii. Use of land for any purposes other than the purpose of extension or for ancillary purposes of the plantation;
- iii. Obtaining the permission by fraud or misrepresentation.

Thus the giving or refusing of permission by Land Board under section 31 and cancelling of such given permission under section 33 is final and they are not subjected to be questioned in the court of law.¹⁶ Only if the Land Board is found to be guilty under these cases then they can be questioned about their responsibilities in these courts.

5.2 POWERS TO RECTIFY MISTAKES:

¹⁶ Section 34.

The section 36 of the Act¹⁷ provides that the board has the power to make necessary correction where a bona-fide mistake has occurred. So also it can correct any other relevant mistakes also.

5.3 PERMISSION TO HOLD EXCESS LAND BY INDUSTRIAL OR COMMERCIAL UNDERTAKINGS OR PUBLIC TRUST:

Section 37A provides that the Government can permit any industrial or commercial undertakings to hold or acquire any land in excess of the ceiling area. Similarly, it also applies to the public trust, if such trusts wanted to hold or acquire any land for the purposes:

- 1) For establishing any educational institutions or hospital;
- 2) Expanding any existing educational institutions or hospital;
- 3) Such other matters as maybe prescribed.

There are many powers and functions are laid on the part of the Land Board but the above mentioned are some of the important functions of the Land Board.

6. LAND TRIBUNAL:

The Land Tribunal is discussed in section 76, 76A and 77 of this Act. The said sections discuss their constitution, powers, and jurisdiction of Land

¹⁷ Section 36- The Land Board may, either of its own motion Board to or on the application of any of the parties:

- (a) if it is satisfied that a bona-fide mistake has been made in regard to any decision, make the necessary correction therein ;
- (b) At any time, correct any clerical or arithmetical mistake in its decision.



Tribunals. The government can constitute any number of land tribunals in that State when they think it is necessary.

The members of this tribunal should be an officer not below the rank of District Revenue officer.

The land commissioner has the power to transfer the appeal from one tribunal to another.

Each land tribunal shall have jurisdiction over such areas as the government may notify from time to time determine. Every land tribunal shall have the powers as are vested in a civil court under the Code of Civil Procedure, 1908. The land tribunal is a single member body under the administrative control of the land board.¹⁸ The High Court has also got revisional jurisdiction over the Land Tribunals orders.

6.1 NEED FOR LAND TRIBUNAL:

The problem of land reforms administration came to an end only when the land tribunals are established in each and every state. Failure to hear every side, prejudice decrees, private consultations, policy outside the statute, facts determined independently of policy are some of the common complaints made against the Administrative Tribunals. The Administrative bodies often make their own decisions on their own mindset without even thinking other legal consequences which will happen in the

future. They lack knowledge in judicial provisions and statutes and also they were not aware to follow the provisions of Code of Civil Procedure, 1908. The absence of arrangements to review decisions, the concentration of power in these bodies and the absence of appellate authorities are other sources of anxiety.

It is also seen that the lawsuit method of adjudication in a Civil Court is the other alternative for this defects. But at the same time these Civil Courts also have various defects like if there was a rivalry between a tenant and landlord in the sense the landlord will be having the sound financial resources and he may appoint a leading lawyer to his case or there are also chances of bribing a Judge and hence he may get the Judgement in his favour through these crooked means. Or the landlord provides only less amount of compensation to his tenant and also can evict him unreasonably.

Hence to overcome all these disadvantages the Land Tribunals are constituted in each and every States.

6.2 POWERS OF LAND TRIBUNAL:

The land law Tribunal is playing a vital part among other tribunals and courts. There are many powers vested in them. But some powers are discussed below. They are:

1. To determine the purchase price of the land.
2. To determine the value of the site of the dwelling house.

¹⁸ Supra note 8.



3. To decide disputes arising between the landlord and tenants.
4. Any other duty which may be prescribed by the government.

Earlier the bill was propounded to the constitution only one land tribunal in a state. But after the amendment, it is made that any number of tribunals can be constituted. At the same time earlier it was propounded that only one member to be in the Tribunal. But after the amendment, it is increased to three in number with a term of office not less than three years.

7. TAMILNADU LAND REFORMS SPECIAL APPELLATE TRIBUNAL:

The chapter X-A of the Act deals with the constitution of the tribunal appointment, qualification, removal of members of tribunal, powers, and jurisdiction of the Tribunal.

The following officers constituted under this Act are:

- 1) Authorised officer- section 3(5)¹⁹
- 2) The Tamil Nadu Land Board
- 3) Land Tribunal
- 4) Land Commissioner
- 5) Tamil Nadu Land Reforms Special Appellate Tribunal.

The above mentioned authorities are appointed in order to look into any dispute

¹⁹ Section 3(5)- " authorized officer " means any Gazetted Officer authorized by the Government by notification to exercise he powers 'conferred on, and discharge the duties imposed upon, the authorized officer under this Act for such area as may be specified in the notification.

or complaint with respect to issues or matters arising under this Act.

7.1 CONSTITUTION OF TAMIL NADU LAND REFORMS SPECIAL APPELLATE TRIBUNAL:

The section 77(c) deals with the constitution, appointment, qualification of the members of the Tribunal. The Government has the discretionary power to constitute for Special Appellate Tribunal if it is necessary to constitute provided by notification.

The Special Appellate Tribunal shall consist of:

7.1.1. Qualification:

1. A Chairman, who must be a judge of the High Court or must be a person who held the office of Vice-Chairman for at-least two years,
2. A Vice-Chairman, must be a person qualified to be a judge of a High Court or has been an Officer of Government not below the rank of Special Commissioner or Secretary to the State Government for a period not less than two years or has been Secretary to Law Department for a period of not less than two years or has been member of the tribunal for the period of three years.
3. Judicial member- he must be qualified to be a judge of a High Court or has been the Secretary to Government, Law Department for a period of not less than two years.
4. Administrative member- he must be an officer not below the rank of commissioner and secretary to the Government and has dealt with land



reform measures during his service for a period of not less than one year in the aggregate.

7.1.2. Terms and conditions of service: The Chairmen, Vice-Chairmen, and other members can hold office for a period of five years. The Chairman and Vice-Chairman can hold office until the age of 65 years and 62 years respectively.

7.1.3. Salary and allowances: The salaries and Allowances are prescribed by the Government. The increase of salary and allowances are discretionary powers of the Government.

7.1.4. Removal: the above said members cannot be removed before the term of office expires. They can be removed before their office gets over only on the grounds if they are proved misbehaviour or incapacity.

7.1.5. Powers of the Special Appellate Tribunal: the powers are as same as vested in Civil Court under the Code of Civil Procedure, 1908 including the powers to punish for contempt. Likewise, the orders or decrees passed by the Special Appellate Tribunal shall be final and shall not be questioned in any court of law except in Supreme Court.²⁰

7.1.6. Power to summon persons etc: The authority referred under this Act has the power to issue summons to any person in order to give evidence or to produce a document. The enquiries conducted by these authorities are said to be judicial in nature proceeding within the meaning of sections 193²¹ and 228²² of IPC.

²⁰ Section 77G.

²¹ Section 193 of IPC- Punishment for false evidence.—Whoever intentionally gives false evidence in any stage of a judicial proceeding, or

7.1.7. Penalty: the authorities can even issue penalties if they find anything contravening their order as per section 77-I of Act.

8. CONCLUSION:

Thus the Land Tribunal is established in order to overcome the difficulties prevailing in the Administrative Tribunal. At the same time, the Land Tribunal is constituted as per the Article 323B²³ of the Indian Constitution. Article 323B empowers Parliament and State Legislatures for establishing Tribunals for adjudication of disputes, complaints or offences regarding the following matters:

- a. Foreign exchange and export
- b. Land reforms
- c. Industrial and labour disputes etc.

It should be kept in mind that the proceedings of these Courts are

fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

²² Section 228 of IPC- Intentional insult or interruption to public servant sitting in judicial proceeding.—Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

²³ Article 323B- Tribunal for other purposes.



governed by the Principles of Natural Justice and subject to the sections 193, 219, 228 of IPC.

Thus the Land Tribunal of Tamil Nadu is one of the pioneer legislation in the land reforms. Since it resolves the dispute between the landlord and tenant in a peaceful manner and this hears the cases relating only to land related issues hence the decrees are provided faster than the other courts. There is a saving of time for both the parties. The land tribunal tries to safeguard the interests and rights of both the landlord and tenants. Thus the tribunal plays a very important role under the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961.

Thus the following things that can be summarised are:

1. Pioneer of Tamil Nadu legislations when it comes to land Reforms.
2. Bill provides for simplified procedures rather than the procedures lay down in the civil courts.
3. It tries to safeguard the interests, rights of the landlord and the tenants.
4. The Act provides to constitute any number of tribunals if the Government feels necessary.
5. The Special Appellate can also be constituted under the Act.
6. The Act also provides provisions for constituting Land Boards in respective States if necessary.

Thus these are the specialties of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 regarding the land tribunal.
