(1969) 04 MAD CK 0038

In the Madras High Court

Case No : Writ Petition No. 2525 of 1966

B.E. Kallaperumal Nattar APPELLANT

Vs

The Authorised Officer (Land Reforms), Tiruchirapalli RESPONDENT

Date of Decision : 01-04-1969

Acts Referred:

Citation : (1969) 04 MAD CK 0038

Hon'ble Judges : Alagiriswami, J

Bench : Single Bench

Advocate : K.V. Sankaran, for the Appellant; S.T. Ramalingam for the Govt. Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Alagiriswami, J.—The petitioner purchased 2.32 acres in S. 40/5 and O. 13 acres in S. No. 40/7 in Bikshandarkoil village, Tiruchi district, from one Chockalingam Pillai by a registered sale deed dated 14th May 1964. This Chockalingam Pillai had over 3.91 acres out of 4.94 acres in S. No 40/5 as surplus under the Madras Land Reforms (Fixation of Ceiling of Land) Act 1961 and the land was accordingly notified as surplus under S. 18(1) of the Act. The extent of 2.32 acres purchased by the petitioner in, that survey number is included in the portion notified as surplus. The authorised officer, Tiruchirapalli, issued a notice to the petitioner informing him that he should not cultivate it as it had vested in the Government in pursuance of the notification published under S. 18(1) of the Act. The petitioner filed a revision petition to the Board and that was also dismissed. The writ petition has been filed to quash the order of the authorised officer. The land in question belonged to Chockalingam Pillai on the date of the commencement of the Act, that is 6th April 1960, as well as the notified date 2nd October 1962. The authorised officer ignored the transaction of sale in favour of the petitioner under S. 23 of the Act, as it was after the notified date. The petitioner''s contention is that there is no prevision in the Act, which declares that a sale in favour of a person whose total holding including the land so purchased does not exceed the ceiling is void, there being no dispute that even if the land purchased by the petitioner is included in his other holdings it does not exceed the ceiling. This land, it is contended, cannot be treated as the surplus land of the petitioner''s vendor, as he is no longer the owner, and the authorised officer had to power to declare it as a surplus or to hold that the land had vested in the Government and thus try to take possession of it.

2. In respect of transactions of sale made after the notified date, S. 19 provides that no document registered unless a declaration in writing is made in duplicate by the transferee before the registering authority as to the total extent of land held by him. The registering authority should forward it to the authorised officer, and the authorised officer may thereupon take such action as is deemed fit in accordance with the provisions of the Act. Under S. 20, if, as a result of any transfer after the notified date, the extent of land held by the transferee exceeds the ceiling area then the right, title or interest accrued in his favour by virtue of such transfer in the land in excess of the ceiling area shall be deemed to have been transferred to Government on a declaration made by the authorised officer. In the present case these provisions would not apply as the petitioners'' land even after the transfer did not exceed the ceiling, S. 22 provides that where between the date of the commencement of the Act and the notified date any person has transferred any land, the authorised officer may declare the transfer to be void, if he finds that the transfer defeats any of the provisions of this Act. This provision does not apply, as the transfer in this case was after the notified date. S. 23 provides that for the purpose of fixing for the first time the ceiling area of any person holding land on the date of commencement of the Act, in excess of 20 standard acres, the authorised 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 S. 12 or 14, This transaction is after the notified date and before the date of the final statement order S. 12 or 14. The question, therefore, is what is the effect of S. 23 on the transaction/ under consideration? Is it, as contended for on behalf of the respondents, that notwithstanding the sale in favour of the petitioner, the land in question should be deemed for purposes of the Act to belong to the original transferor whose lands including the land in question exceeded the ceiling area and, is therefore, liable to be declared as surplus, or as contended by the petitioner the only remedy for the authorised officer is to take from the original owner himself whatever might be deemed to be the surplus in accordance with the provisions of the Act and not to take from the transferee what he has got by paying proper consideration. As there is no provision in the Act declaring such a transfer void, I think the contention on behalf of the respondents is correct. It is true that there is no provision specifically declaring void a transfer by a person holding lands in excess of the ceiling in favour of a person holding lands less than the ceiling area even after taking into consideration the land so transferred in his favour. There is provision in Ss. 19 and 20 for dealing with a case where the land held by the transferee after such a transfer excess the ceiling and such transaction takes

place after the notified date, as mentioned already. There is no provision regarding transfers by persons having less than the ceiling on the date of commencement of the Act or on the notified date or even subsequently in favour of persons who after taking into account the transfer in their favour do not hold land in excess of the ceiling. Such transactions are outside the scope of the Act. But transfers after the notified date by a person, who on the date of the commencement of the Act had lands in excess of the ceiling to any other person even though such a person may be one who even after such transfer has less than the ceiling would be hit by the provisions of the Act. This is quite understandable. Otherwise, a person who has, say, 100 acres of land on the date of the commencement of the Act, could transfer 10 or 20 acres each to a number of persons who do not, either own any land or, who even after such transfer in their favour, would not have land exceeding the ceiling and thus, defeat the very purpose of the Act. This is the answer to the contention of the petitioner that it may be open to the authorities to take the surplus land from the transferor; but not from the transferee. Supposing for instance, in this case the transferee had parted with all his lands, from whom is the surplus to be taken? Therefore, the basic policy of the Act would be defeated, if the contention of the petitioner is accepted. Of course, that itself may be no reason for rejecting his contention, If such a conclusion follows from the provisions of the Act I do not, however, think that such a conclusion follows from the provisions of the Act. The Act, from Ss. 8 to 12 and 14 proceeds on the basis that whatever extent of land a person had on the date of the commencement of the Act, should be deemed to continue to be his land till the final notification under S. 12 or 14, is made and the further notification under S. 18(1) is made. It is for that purpose that S. 23 lays down that transactions after the date of commencement of the Act should be ignored for the purpose of fixing for the first time the ceiling area of any person holding land on the date of the commencement of the Act in excess of 30 standard acre. The idea is that whatever transactions such a person may have effected after the date of commencement of this Act that should be ignored and the land subject to these transactions should be dealt with as though they still belonged to the person who held them at the date of the commencement of the Act. S. 8 provides that within ninety days from the notified date every person, who, on the date of the commencement of the Act, held or is deemed to have held, land in excess of 30 standard acres, should furnish to authorised officer, a return containing various particulars therein specified, one of the particulars which he has to furnish is of the land which such person desires to retain within the ceiling area and the land which he desires to be declared as surplus land. Such a return has been made in this case in respect of the land which is under consideration. Under S. 9, the authorised officer is entitled to a notice to require such a person as is referred to in S. 8 to furnish the return under that section and also to ask for additional particulars and is himself unable to obtain the necessary information. After considering any representation which such a person might make, the authorised officer should under S. 10, prepare draft statement in respect of each person having land in excess of the ceiling area. Such a draft statement among other particulars, should contain particulars of the land which such a person desires to retain within the ceiling area and particulars of the land proposed to be declared as surplus land. That also has been done in this case in respect of this land. After the disposal of objections, if any, preferred under sub-S. 5 of S. 10 and passing orders, if any, under sub-S. 1 of S. 11, the authorised officer should publish a final statement containing the particulars already referred to and such statement is conclusive evidence of the fact stated therein. Such a publication has also been made in this case. It would, thus, be noticed that the scheme of the Act is that it deals with only the person holding land in excess of the ceiling at the date of commences merit of the Act, Subsequent transactions by him are ignored under the provisions of S. 23 which does not take into account such transactions. The Act does not contemplate notice being given to any transferee after the notified date of hearing his objections. It does not treat him as having any rights in the land transferred to him. In the face of the scheme of the Act, it is obvious that no transfer by a person holding on the date of commencement of the Act land in excess of the ceiling can be given effect to. The fact that there is no provision specifically laying down that such a transfer is not valid or that no provision is made for hearing the objections of the transferees in such cases, would not in any way affect the conclusive nature of the final statement published under S. 12. To hold otherwise would be to defeat the very purpose of the Act. I am, therefore, of opinion, that there are no merits in this writ petition and it is, accordingly, dismissed with costs. Advocate''s fee Rs. 100.