

(1992) 12 MAD CK 0041

In the Madras High Court

Case No : Writ Petition No. 6882 of 1984

C. Justus

APPELLANT

Vs

The Authorized Officer, Appointed under the Tamil Nadu Rural Artisans (Conferment of Ownership of Kudiyiruppu Act, 1976) (Act 38 of 1976) and the Sub Collector, Padmanabhapuram, Kanyakumari Dt., the District Collector, Kanyakumari District at Nagercoil (The Appellate Authority under the Tamil Nadu Rural Artisans (Conferment of Ownership of Kudiyiruppu) Act, 1976 (Act 38 of 1976) and M. Narayanan

RESPONDENT

Date of Decision : 24-12-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1992) 12 MAD CK 0041

Hon'ble Judges : Raju, J

Bench : Single Bench

Advocate : N. Paul Vasanthakumar, for the Appellant; P. Chandrasekaran . A.G.P and Mr. M. Jayaraman, for the Respondent

Final Decision : Allowed

Judgement

Raju, J.—The above writ petition has been filed for the issue of a Writ of Certiorari to call for and quash the proceedings of the first respondent in Na Ka. B.I.K.R.3/78 (Kal) dated 30-12-1982 which was confirmed by the order of the second respondent in his order in L. I/32981/83 dated 19-12-1983. The writ petitioner, in the affidavit filed in support of the petition, claims to be the owner of the coconut thoppu and a small house in Lakshmipuram village, Sasthankarai Lresara, Konnakotta in Old S. Nos. 6437 and 6433 in Kalkilam Taluk, Kanyakumari District. The petitioner claims to have purchased the same in the year 1959 as per the registered document dated 23-5-1959 and is said to be in possession of the said plot measuring about 97 cents including the house situated therein. It was said to have been constructed by the vendors of the petitioner. The petitioner also claims to be paying house tax to the Town

Panchayat.

2. While the "matter stood thus, the third respondent appears to have filed an application before the first respondent on 27-1-1976 under the provisions of the Tamil Nadu Rural Artisans (Conferment of Ownership of Kudiyiruppu) Act, 1976 and the Rules made there under for the pant of Kudiyiruppu patta in his name for 1.5 Acre situated in the land in question. The first respondent by his order dated 30-12-1982 allowed the application" and directed grant of patta under S. 8 of the Act on the basis of the findings that the third respondent applicant is an agricultural laborer and therefore entitled to patta under the provisions of the Act in question. The petitioner filed an appeal before the second respondent appellate authority. The second respondent was also of the view that inasmuch as the third respondent is an agricultural laborer and living on the income from such avocation as such, the grant of patta is quite in Order and subsequently confirmed the order of the first respondent. Aggrieved, the above writ petition has been filed.

3. Mr. Paul Vasanthakumar, learned counsel appearing for the petitioner contended that though the finding of respondents 1 and 2 are not based on proper material and correct appreciation of the legal issue, even assuming that the third respondent is an agricultural laborer living on the earnings as such, he would not satisfy the definition of "rural artisan" as defined under S. 4 (8) of the Act and on this ground alone the impugned orders are liable to be set aside.

4. Mr. M. Jayaraman, learned counsel appearing for the third respondent while reiterating the stand taken in the counter-affidavit filed, contended that the third respondent has been living in the portion under his occupation from 1957 and he being an agricultural laborer would come within the definition of "rural artisan" and therefore, the contention to the contrary has no substance. It is also contended that the petitioner has not disproved the claim and the findings of the authorities below by the producing any material to the contra and since the income of the third respondent does not exceed Rs. 2,400 per annum, the impugned orders are in accordance with law. It is also stated that the petitioner is not entitled to urge objections challenging findings of facts in this writ petition under Art. 226 of the Constitution of India.

5. I have carefully considered the submissions of learned counsel appearing on either side. I am of the view that the contention on behalf of the petitioner that even on the findings of fact rendered by respondents 1 and 2 on the status of the third respondent as an agricultural laborer, he would not satisfy the definition of "rural artisan" within the meaning of the Act, is a well merited one and deserved to be sustained. The provisions of S. 4(8) of the Act read as here under:

"Rural artisan" means a person, other than a plantation laborer, who does not hold any land other than the kudiyiruppu and whose annual household income does not exceed two thousand and four hundred rupees and

(a) Whose principal means of livelihood is production or repair of traditional

tools, implements and other articles or things used for Agriculture or purposes ancillary thereto; or

(b) who normally earns his livelihood by practicing any craft either by his own labor or by the labor of the members of his family.

Explanation:-For the purposes of this clause: -(I) a village carpenter, blacksmith, was her man or potter or any other person engaged in any such calling or employment as the Government may, by notification, specify shall be deemed to be a rural artisan if he does not hold any land other than the kudiyruppu and his annual household income does not exceed two thousand and four hundred rupees and he normally earns his livelihood by practicing the craft either by his own labor or by the labor of the members of his family."

It is not the case of the third respondent that he is doing anything except working as an agricultural laborer. Consequently, the only primary issue that requires to be considered is as to whether an agricultural laborer can be said to be a rural artisan within the meaning of the provisions of the Act.

6. "Rural arisen" has been defined for the purposes of the Act to mean a person other than a plantation laborer, who does not hold any land other than the kudiyruppu. and whose house hold income does not exceed Rs. 2,400 and (a) whose principal means of livelihood is production or repair of traditional tools, implements and other articles or things used for agriculture or purposes ancillary there to; or (b) who normally earns his livelihood by practicing any craft either by his own labor or by the labor of the members of his family. The Explanation for the above definition clause would stipulate that a village carpenter, blacksmith, barber, was her men, or potter or any other person engaged in any such calling or employment as the Government may. by notification, specify shall be deemed to be a rural artisan if he does not hold any land other than the kudiyruppu and his annual household income does not exceed two thousand and four hundred rupees and he normally earns his livelihood by practicing the craft either by his own labor or by the labor of the members of his family.

7. The deeming Explanation as above, could by itself show that a person to be eligible for the benefits of the Act as rural artisan, has to satisfy the criteria prescribed both in the main part to the subsection as well as clauses (a) and (b) thereto. It is not the case of the third respondent before me or before the authorities below nor those authorities were of the view that there was any notification by Government by virtue of the powers conferred in the Explanation to S. 4(8) of the Act notifying an agricultural laborer to be a rural artisan. On the other hand, the sum and substance of the contention of the third respondent before me as well as respondents 1 and 2 is that he should be considered to satisfy the main part of sub-S. 8 of S. 4 and Cl. (b) and that even as an agricultural laborer itself he would be a person normally earning his livelihood by practicing any craft by his own labor or by labor of any of the members of his family. The third respondent has not claimed as already indicated supra, either

before the authorities below or before this Court that he would answer the description of anyone referred to and specified in Cl. (a) of sub-S. (8) of S. 4 of the Act, or that he would satisfy any of the categories of artisan illustrated in the Explanation to the said provision. The third respondent, in my view, having regard to his own claim and finding of the authorities below that he is an agricultural laborer would not come within the definition of "rural artisan" referred to above. To satisfy S. 4(8) (b) of the Act he should be a person normally earning his livelihood by practicing any craft either of his own labor or by the labor of the members of his family. The shorter Oxford dictionary shows that a "craft" is a calling requiring special skill and knowledge, especially, manual, of a handicraft, and "craftsman" has been defined to mean a person who practices a handicraft and artisan, Consequently, one could claim to be an artisan only on the ground of his practicing a craft or handicraft. The word "craft" has to be construed contextually and with reference to the other parts of the subsection defining "rural artisan", That the: said construction would be the proper and reasonable one, in my view is also reinforced by the fact that the claim of an occupant of a kudiyruppu for conferment of ownership or grant of patta as an agriculturist or an agricultural laborer has been provided for and is to be dealt with only under the Tamil Nadu Occupants of Kudiyruppu (Conferment of Ownership) Act, 1971 and the Rules made there under.

8. In view of the normal as well as the contextual meaning to be ascribed to the word "craft" having regard to the collocation of the words "rural artisan" under S. 4(8) and also having regard to the fact that claims for conferment of ownership of a person on the ground of his being an agricultural laborer are envisaged only under a different and separate enactment, the claim that as an agricultural laborer, the petitioner (before the lower authority) satisfies the definition of "rural artisan" as defined under S. 4(8) of the Act in question, is not only farfetched, but would be meaningless and unsustainable. Respondents 1 and 2 have miserably failed to properly apply their mind to the vital and fundamental aspects of the issue and consequently, the impugned orders stood grossly vitiated qualifying interference of this court in these proceedings under Art. 226 of the Constitution of India.

9. The plea on behalf of the third respondent that it is not open to the petitioner to challenge the factual finding rendered by the authorities below cannot be countenanced. The challenge in this writ petition is not with reference to any factual finding but is of a conclusion of the authorities on the legal inference to be drawn from the factual finding, viz., whether the agricultural laborer would answer the description of the words "rural artisan" within the meaning of the Act. For all the reasons stated above, the impugned orders are hereby quashed and the writ petition shall stand allowed as prayed for. No costs.