
(1987) 07 KL CK 0013
In the High Court Of Kerala
Case No : C.R.P. No. 1169 of 1984

Joseph Thomas

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 23-07-1987

Acts Referred:

Kerala Land Reforms Act, 1963 — Section 81

Citation : (1987) KLJ 977

Hon'ble Judges : K.P. Radhakrishna Menon, J

Bench : Single Bench

Advocate : D. Krishana Prasad, for the Appellant;

Judgement

K.P. Radhakrishna Menon, J.—The declarant is the revision petitioner. His grievance is that the Taluk Land Board has wrongly disallowed his claim for exemption, in respect of land treasuring 6.66 acres in extent comprised in Survey No. 2226 of Agali Village which admittedly is a rubber plantation. According to the declarant, the land originally formed part of "private forest" within the meaning of the M.P.P.F. Act. It is this private forest which was converted into a rubber plantation in the year 1967 and that it is so can be seen from the certificate issued by the Rubber Board. Assuming, the conversion of the private forest into a rubber plantation was after 1-4-1964, even then the declarant is entitled to get the land excluded from the purview of the ceiling case, because a land once found belonging to the exempted category and hence excludible from the account of the declarant, cannot later be treated to be includible in the account unless a specific provision to the contra exists in Sec. 81 K.L.R. Act, the counsel submits. The question whether the conversion was before or after 1-4-1964 is therefore irrelevant to be considered because the land in question, the counsel submits, belong to the exempted category.

2. The above argument of the counsel considered in the light of the scheme of Section 81 K.L.R. Act, is well founded. This Section is the first section in Chapter III which contains provisions imposing restrictions on ownership and possession

of land in excess of the ceiling area and disposal of excess lands. This section provides that the provisions of Chapter III shall not apply to lands enumerated thereunder. The exemption provided for under this Section in the case of certain lands, however is withdrawn on the expiry of the stipulated period. For instance in the case of lands taken under the management of court wards" the exemption shall cease to apply at the end of three years from the commencement of K.L.R. Act. There are many such lands which are taken out of the exempted category on the expiry of the prescribed period. The ratio legis thus is clear that the lands included in the exempted category will enjoy the exemption indefinitely unless there is a cessation of exemption provided for under Sec. 81 itself. On a plain reading of Section 81, it is clear that "Private Forests" belongs to that category of land which enjoys the exemption without any restriction. If that be so, "private forest" converted into rubber plantation, although the conversion took place after 1-4-1964, requires to be excluded from the accounts of the declarant because the land converted belongs to the category of lands permanently exempted from the purview of the ceiling provisions contained in K.L.R. Act.

3. Without adverting to any of these aspects, the Taluk Land Board has found that the declarant is not entitled to get the land in dispute, i.e. 6.66 acres, excluded from the purview of the ceiling case.

4. In the light of what is stated above, the order under challenge is liable to be set aside. Accordingly set aside, the order and remand the issue pertaining to the claim of the declarant for exemption of 6.66 acres of land in Survey No. 2225 of Agali Village from his accounts, to the Taluk Land Board for a denovo consideration. The Taluk Land Board while considering the issue, shall keep in view the principles highlighted in this order. The declarant will be given a chance to produce further evidence if necessary.

The C.R.P. is disposed of as above. No costs.