
(1991) 10 KL CK 0041
In the High Court Of Kerala
Case No : C.R.P. No. 902 of 1983-D

L. Mary Yohannan

APPELLANT

Vs

N.K. Sreekumaran Nair and Another

RESPONDENT

Date of Decision : 25-10-1991

Acts Referred:

Kerala Land Reforms Act, 1963 — Section 2(25), 2(33B), 80(1), 80A, 80A(3)

Citation : AIR 1992 Ker 36 : (1992) 1 ILR (Ker) 1

Hon'ble Judges : M. Jagannadha Rao, C.J; T.L. Viswanatha Iyer, J; K. John Mathew, J

Bench : Full Bench

Advocate : G. Sivarajan, for the Appellant; P. Gopalakrishnan Nair, V.K. Beeran, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

M. Jagannadha Rao, C.J.—In the reference to the Full Bench, the point is regarding the interpretation of Explanation to Section 2(33B) and Section 80A(3) of the Kerala Land Reforms Act, 1964 (hereinafter called "the Act").

2. The facts of the case are as follows: The petitioner was holding 20 cents of land and a building under a possessory mortgage. The first respondent-landowner obtained a decree for redemption in OS 170 of 1974 in the Court of the District Munsiff, Trivandrum by judgment dated 6-3-1976. The mortgage was by an Ottikuzhikanam deed dated 5-10-1963 executed by the respondent's mother and others in favour of the petitioner. After the decree for redemption was obtained as stated above, the decree-holder filed EP 1041 of 1978 for redemption. At that stage, the petitioner claimed kudikidappu right by virtue of the provisions of Explanation IV to Section 2(25) of the Act. The execution court ordered not to dispossess the petitioner from the schedule building till the kudikidappu right of the petitioner was determined. The petitioner then filed OA 113 of 1979 before the Land Tribunal, Trivandrum u/s 80B of the Act as amended by the Act 35 of 1969 claiming that she was entitled to purchase part of the

property in her possession in exercise of the right conferred by Section 80A(3) of the Act. Her application was opposed by the respondent. The contention raised by the respondent was rejected and upon an application of Explanation IV to Section 2(25), the Land Tribunal held, in its order dated 4-6-1979, that the petitioner being a kudikidappukari was entitled to purchase by virtue of her kudikidappu right only in regard to three cents in as much as the property was within the Corporation area of Trivandrum at the time of her becoming a kudikidappukari. A certificate of purchase for three cents of kudikidappu land in Survey No. 2575/5 of Anchamada village of Trivandrum taluk was directed to be issued.

3. Being aggrieved by the said order, the petitioner filed an appeal, AA 326 of 1979 before the appellate authority. Petitioner contended that the property was within Vattiyoorkavu panchayat area till 31-12-1961 and the applicant was entitled to purchase ten cents, rather than three cents as declared by the Land Tribunal and for the purpose of this contention, she relied upon Section 2(33B) and the Explanation appended to that subsection. The appellate authority, by its order dated 10-1-1983, dismissed the appeal holding that the petitioner was holding the property and building as a mortgagee on the date on which the area was added to the City Corporation and that even on 1-1-1970 when the Act came into force, the applicant was only a mortgagee. According to the appellate authority, the position of kudikidappu became an issue only after the property was redeemed in 1979 and as per Explanation IV to Section 2(25), the mortgagee in possession who was holding a right already in existence on the land to which the mortgage relates, will be deemed to be a kudikidappukaran provided that at the time of redemption, he satisfied certain conditions. The appellate authority, therefore, held that for the purpose of deciding the right to purchase u/s 80A(3), the position at the time of redemption was relevant. The applicant was not in possession of any land exceeding three cents in the City at the time of redemption and so she was eligible only to purchase three cents from the schedule property which is within the City at the time of redemption when she became eligible for kudikidappu. It is against this order that the petitioner had preferred the present revision.

4. In this revision, it is contended by learned counsel for the petitioner that as per Exts. A6 and A8 the schedule property was within Vattiyoorkavu panchayat area up to 31-12-1961 and that as per the provisions of Section 2(33B) and the Explanation thereto of the Act, if the land on which the petitioner was residing was included in the Trivandrum Corporation from 1-1-1962, the property must be deemed to be within a panchayat area and not within a Corporation. On the basis of the Explanation and the deeming provision, the petitioner contends that notwithstanding the fact that the property came within the Trivandrum Corporation from 1-1-1962 it should still be treated as land within a panchayat area and, therefore, the petitioner would be entitled to purchase not three cents out of the schedule property but ten cents. It is contended that the date on which the petitioner became a kudikidappukaran u/s 2(25) and Explanation IV and the date on which the petitioner became entitled to purchase u/s 80A(3) are

not relevant and that what is relevant is only the fact whether the particular area in which the kudikidappu is located is within a panchayat area as per the deeming provision in the Explanation to Section 2(33B) of the Act. Learned counsel for the petitioner also contends that the Explanation to Section 2(33B) is, in fact, an independent provision though described as an Explanation.

5. Learned Additional Advocate General appearing for the State supported the view of the petitioner. Learned counsel for the respondent-mortgagor contended that the relevant date for consideration of the question is a date on which the petitioner became a kudikidappukaran u/s 2(25), Explanation IV or at any rate, when he filed the application for purchase, that is, in 1979, u/s 80A(3) of the Act. According to him, on that date the area was within a Corporation and the petitioner cannot make any claim on the basis of the Explanation to Section 2(33B) of the Act. It is contended that the Explanation cannot be treated as an independent provision.

6. From the contentions mentioned above, the following points arise for consideration :

(1) Whether for the purpose of Section 80A(1) read with Sub-Clause (3) of Section 80A of the Act, the extent of land which a kudikid-appukaran is entitled to purchase depends upon the date on which he either becomes a kudikidappukaran under Explanation IV to Section 2(25) or becomes entitled to the right to purchase u/s 80A(1) and (3), --or whether the said dates have no relevance?

(2) Whether the kudikidappukaran who had acquired his right to purchase after 1-1-1970 as per the amending Act 35 of 1969 was entitled to claim the right to purchase ten cents rather than three cents in the city of Trivandrum on the basis that the land was situate in a purchase area before 1-4-1960, in view of the deeming provision introduced by the Explanation to Section 2(33B)?

7. Point No. 1:-- From the facts stated above, it is clear that the petitioner became a mortgagee with possession on 5-10-1963 from the respondent. Learned counsel for the petitioner at one stage wanted to rely upon an earlier mortgage deed dated 30-8-1956, but during the course of arguments, it was noticed that the deed dated 5-10-1963 clearly mentioned that the earlier mortgage was fully discharged and a fresh mortgage deed was executed. Therefore, we must proceed on the basis that the petitioner became a mortgagee with possession on 5-10-1963.

8. The first question is as to when the petitioner becomes a kudikidappukaran. Section 2(25) of the Act as introduced by amending Act 35 of 1969 (with effect from 1-1-1970), defined "kudikidappukaran" as a person who has neither a homestead nor any land exceeding in extent three cents in any city or major municipality or five cents in any other municipality or ten cents in any panchayat area or townshp, in possession either as owner or as tenant, on which he could erect a homestead. Under Sub-Clause (a) thereof, he must have been permitted

with or without an obligation to pay rent by a person in lawful possession of any land to have the use" and occupation of a portion of such land for the purpose of erecting a homestead; or, under Sub-Clause (b) he must be one who has been permitted by a person in lawful possession of any land to occupy, with or without an obligation to pay rent, a hut belonging to such person and situate in the said land. "Kudikidappu" means the land and the homestead or the hut so permitted to be erected or occupied together with the easements attached thereto.

9. It is common case that the petitioner is claiming rights under Explanation IV to Section 2(25) and that provision reads as follows:

"Explanation IV-- Where a mortgagee with possession erects for his residence a homestead, or resides in a hut already in existence, on the land to which the mortgage relates, he shall, notwithstanding the redemption of the mortgage, be deemed to be a kudikidappukaran in respect of such homestead or hut, provided that at the time of the redemption:

(a) he has no other kudikidappu or residential building belonging to him, or any land exceeding three cents in any city or major municipality or five cents in any other municipality or ten cents in any panchayat area or township, in possession either as owner or as tenant, on which he could erect a homestead; and

(b) his annual income does not exceed two thousand rupees."

The finding of the Tribunals below that the petitioner became a kudikidappukaran under Explanation IV has not been challenged before us by learned counsel for the respondent. It, therefore, follows that the petitioner who became a mortgagee with possession, and who was residing in the hut already in existence in 1963 upon a land to which the mortgage related, should be deemed to be a kudikidappukaran notwithstanding the redemption of the mortgage in as much as at the time of redemption she has satisfied sub-clauses (a) and (b) of Explanation IV to Section 2(25). It is, therefore, clear that the right to be treated as a kudikidappukaran became vested in the petitioner only at the time of redemption of the mortgage by the respondent-mortgagor in as much as the petitioner satisfied the conditions required for the grant of such a status, as on the date of redemption. It is, therefore, clear that the petitioner acquired her status as a kudikidappukaran only at the time when the respondent filed EP 1041 of 1978 for redemption and when the petitioner filed OA 113 of 1979 claiming kudikidappu right under Explanation IV to Section 2(25).

10. The next question is as to when the petitioner has acquired the right to purchase part of the kudikidappu or part of the property as specified in Section 80A. It may be noticed that Section 80A was itself introduced by the Legislature in 1969 under Kerala Act 35 of 1969 conferring a right of purchase of kudikidappu upon the kudikidappukaran. That section, in so far as it is material, reads as follows:

"80A. Right of kudikidappukaran to purchase his kudikidappu :-- (1)

Notwithstanding anything to the contrary contained in any law for the time being in force, a kudikidappukaran shall, subject to the provisions of this section, have the right to purchase the kudikidappu occupied by him and lands adjoining thereto.

(2)

(3) The extent of land which the kudikidappukaran is entitled to purchase under this Section shall be three cents in a city or major municipality or five cents in any other municipality or ten cents in a panchayat area or township;

Provided that where the land available for purchase in the land in which the kudikidappu is situate, or the land in which the kudikidappu is situate, is less than the extent specified in this sub-section, the kudikidappukaran shall be entitled to purchase only the land available for purchase or as the case may be, the land in which the kudikidappu is situate."

As stated above, the right to purchase was conferred on the kudikidappukaran by Act 35 of 1969 which came into force from 1-1-1970. A person who is a kudikidappukaran is, therefore, entitled, after 1-1-1970, to purchase his kudikidappu as mentioned in Section 80A(1), but the extent of the land which he is entitled to purchase will have to be decided with reference to Sub-Clause (3) of Section 80A, as also the other provisions contained in Section 80A.

11. It is respondent's contention that the petitioner having become a kudikidappukaran after 1973 when the right to redemption was sought to be exercised by the respondent, he will not be entitled to the benefit of Section 80A(1) to purchase the kudikidappu or the adjoining land thereto as mentioned in Section 80A(1). According to the respondent, the right to purchase applies only to such person who became a kudikidappukaran on or before 1-1-1970 on which date Act 35 of 1969 introduced Section 80A. In this context, we have to make reference to the decision in *Purushan v. Prakasan* 1977 KLT 10 where it was held:

".....if the other elements are satisfied, a kudikidappu can come into existence even after 1-1-1970."

This position was approved by a Division Bench consisting of Gopalan Nambiyar, C.J. and Chandrasekhara Menon, J. in *Kunhimama v. Vasu*, 1979 KLT 88 wherein it was observed:

"We are of the opinion, that the mere fact that the kudikidappu sprang into existence only subsequent to 1-1-1970 would not disentitle the kudikidappukaran to the status or the privileges conferred by the Act, so long as the other conditions of the definition stand satisfied."

The above decisions were followed by Bala-gangadharan Nair, J. in *Mohammed v. Abdurahiman*, 1982 KLT 194. In that case the kudikidappukaran claimed a right to purchase u/s 80A filed application u/s 80B for purchase of the kudikidappu. It

was contended for the opposite side that hut concerned originated subsequent to 1-1-1970. In that context the learned Judge rejected the contention that a kudikidappu which sprang into existence subsequent to 1-1-1970 disentitles its occupant the beneficial provisions of Section 80B.

12. For the aforesaid reasons, we hold that even though the petitioner became a kudikidappukaran during 1978-79 and became entitled to purchase the kudikidappu u/s 80A read with Section 80B subsequent to 1978 and even though the petitioner was not a kudikidappukaran by 1-1-1970 when the Act 35 of 1969 was introduced the petitioner would be entitled to the benefit of the right to purchase conferred by the said sections, the said right is not restricted to persons who acquired the status of kudikidappukaran before 1-1-1970.

13. We accordingly hold Point No. 1 in favour of the petitioner.

14. Point No. 2:-- The point is whether a kudikidappukaran who has acquired his right to purchase after 1-1-1970 as per amending Act 35 of 1969 is entitled to claim a right to purchase ten cents rather than three cents in the City of Trivandrum on the basis that the land was situate in a panchayat area before 1-4-1960 and whether he could rely on the deeming provision introduced by the Explanation to Section 2(33B)?

15. For the purpose of appreciating this point, we have to refer to Section 80A(3) once again and also to provisions of Section 2(33B) and the Explanation thereto. Section 80A(3), to the extent relevant, reads as follows:

"80A(3):-- The extent of land which the kudikidappukaran is entitled to purchase under this Section shall be three cents in a city or major municipality or five cents in any other municipality or ten cents in a panchayat area or township:

Provided"

Section 2 (33A) which was introduced by amending Act 35 of 1969 reads as follows:

"2(33A) :-- "Local authority" means a municipal corporation or a municipal council or a township committee or a panchayat or a cantonment board."

Section 2(33B) defines "Major municipality" and which reads as follows:

"2(33B):-- "major municipality" means any of the municipalities of Cannanore, Telicherry, Trichur, Palghat, Alleppey, Quilon and Kottayam and includes-

(a) any of the municipalities of Ernakulam, Fort Cochin and Mattancherry as they existed immediately before the constitution of the Corporation of Cochin;

(b) the municipality of Calicut as it existed immediately before the constitution of the Corporation of Calicut;

(c) The Cannanore cantonment.

Explanation:-- Where any area has been included in a city or a municipality after the 1st day of April 1960, such area shall not be deemed, except for the purposes of Section 76, to be an area within the limits of a city or municipality, as the case may be, but shall be deemed,--

(i) where such area was within the limits of a local authority immediately before such inclusion, to continue within the limits of that local authority; and

(ii) where such area was not within the limits of a local authority immediately before such inclusion, to be within the limits of a panchayat."

16. The contention of the petitioner is that whatever may be the date on which the petitioner acquired the status of kudikidappukaran and even though the date of acquisition of the right to purchase, under Act 35 of 1969 is in 1978-79, so far as the area that the petitioner is entitled to purchase is concerned, one has simply to refer to Sections 80A(3) and 2 (33B).

17. It may be noticed that Sections 80A and 80B were inserted in the Act for the first time by amending Act 35 of 1969 with effect from 1-1-1970 conferring a right of purchase on the kudikidappukaran and laying down the procedure for such purchase. Simultaneously, Section 2(25) which defined "kudikidappukaran" was also amended by introducing a fresh definition of the said word, the opening part of which reads as follows :

"2(25):-- "kudikidappukaran" means a person who has neither a homestead nor any land exceeding in extent three cents in any city or major municipality or five cents in any other municipality or ten cents in any panchayat area or township, in possession either as owner or as tenant, on which he could erect a homestead and-

(a) and (b)....."

It is, therefore, clear that the eligibility criteria u/s 2(25) for a person to have the status of kudikidappukaran also depends upon whether the person does not have a homestead or land exceeding three cents in any city or major municipality or five cents in any other municipality or ten cents in any panchayat area or township, either as owner or as tenant. Section 80A(3) also introduces a similar concept as to area by permitting the kudikidappukaran who has become vested with the right of purchase under Sub-clause (1) of Section 80A, to purchase to the extent mentioned in Sub- Clause (3), namely, up to three cents in a city or major municipality or five cents in any other municipality or ten cents in a panchayat area or township, and subject to other provisions in the section. Both for the purpose of eligibility of the status of the kudikidappukaran u/s 2(25) as well as in regard to the extent of land which such a person is entitled to purchase after 1-1-1970, it had become necessary for the legislature to introduce Section 2(33A) and 2(33B) defining "local authority" as well as "major Municipality". Under the Explanation to Section 2(33B), it is further stated that where any area has been included in a city or a municipality after 1-4-1960, such area shall be

deemed, where such area was within the limits of a local authority immediately before such inclusion, to continue within the limits of that local authority in view of Sub-Clause (1) of the Explanation. Local authority includes a panchayat u/s 2(33A). Therefore, if the land on which the kudikidappu is located was, before 1-4-1960, within a panchayat area, as in the present case, the kudikidappukaran who is entitled to purchase the kudikidappu and the lands adjoining thereto u/s 80A(1) would be entitled, so far as the extent is concerned, to purchase not merely three cents as the kudikidappu came within the purview of Trivandrum city but to ten cents as the inclusion in the Trivandrum Corporation area was only after 1-4-1960. In our view, Clause (1) of Explanation was intended to enlarge the extent which a kudikidappukaran could purchase subsequent to 1-1-1970 notwithstanding the fact that after 1-4-1960 the land on which the kudikidappu is located had come within the purview of another local purpose of computing the area u/s 80A(3), one has to go by the local authority in which the kudikidappu was located prior to 1-4-1960. In the present case though the kudikidappu was within Vattiyoorkavu Pan-chayat up to 31-12-1961 and became included in Trivandrum Corporation from 1-1-1962, Sub-Clause (1) of the deeming provision of the Explanation in Section 2(33B) requires that kudikidappu is to be deemed to be within the limits of Vattiyoorkavu Panchayat. The fiction mentioned in the Sub-Section has to be applied even though subsequent to 1-4-1960, namely, from 1-1-1962 Vattiyoorkavu Panchayat came within Trivandrum Corporation. Therefore, the petitioner would, in our opinion, be entitled to purchase not merely three cents as applicable to Trivandrum Corporation, but ten cents treating the kudikidappu as still within Vattiyoorkavu Panchayat.

18. It has been argued that the Explanation being introduced as part of Section 2(33B), it is referable only to the major municipalities covered by the main provision and sub-Clause (a), (b) and (c) thereof. It is pointed out that Travandrum Corporation is not mentioned in the main part of Section 2(33B) and, therefore, the Explanation cannot be applied to Trivandrum Corporation.

19. We have given our anxious consideration to this aspect of the matter and are unable to agree with the above submission put forward by the respondent. Firstly, the Explanation has used the word "city" which is not found in the main part of Section 2(33B). In the absence of a definition of "city" in the Kerala Land Reforms Act, 1964, it would, in our opinion, be necessary to go by the definition of "city" in Section 3(7) of the Kerala Municipal Corporations Act, 1961 read with Section 3A thereof. Section 3(7) of that Act defines "city" as the city of Trivandrum, the city of Calicut or any other local area constituted to be a city u/s 3A. Section 3A deals with constitution of cities. It says that the areas included immediately before the commencement of the Calicut City Municipal (Amendment) Act, 1964 in the City of Trivandrum and in the City of Calicut shall respectively constitute the City of Trivandrum and the City of Calicut for the purposes of that Act. Sub-Clause (2) of Section 3 A enables the Government, upon a resolution of the State Legislature, to constitute, by a notification any other local area as a city. As already stated, Sub- Clause (1) of the Explanation

to Section 2(33B) an area within the limits of a city or municipality could be deemed to continue within the local limits of the local authority in which it was located prior to 1-4-1960. In our view, the Explanation is intended to widen the scope of Section 2(33B) and to that extent, it is almost in the nature of an independent provision.

20. Contending that the Explanation could not be used for purposes of widening the meaning of the main provision to which it is appended, learned counsel for the respondent has relied upon the decision of the Supreme Court in *Bihta Co-operative Development Cane Marketing Union Ltd., and Another Vs. The Bank of Bihar and Others*, to say that the Explanation cannot be read to widen the scope of the main provision. It is true that the Supreme Court held so in the abovesaid ruling, but we may, however, point out that the question whether an "explanation" could widen the scope of the main provision or not depends upon the intention of the Legislature and the object of the provision. In *Hiralal Rattanlal Vs. State of U.P. and Another etc. etc.*, , the Supreme Court pointed out that in *Bihta Co-operative Development Cane Marketing Union Ltd., and Another Vs. The Bank of Bihar and Others*, the explanation was held not to widen the scope of the main Section because of the language of the explanation in that case. But having regarding to the language of the explanation in *Hiralal's* case, the Supreme Court observed as follows (Paras 24 and 25):

"But from what has been said in the case, it is clear that if on a true reading of an Explanation it appears that it has widened the scope of the main section, effect must be given to legislative intent notwithstanding the fact that the legislature named that provision as an Explanation. In all these matters, the Courts have to find out the true intention of the legislature.

We are unable to accept the contention that Explanation II to Section 3-D (of the Uttar Pradesh Sales Tax Act, 1948) did not widen the scope of Section 3-D."

Hiralal Rattanlal Vs. State of U.P. and Another etc. etc., has recently been followed by the Supreme Court in *Aphali Pharmaceuticals Ltd. Vs. State of Maharashtra and Others*, In that case, Saikia, J. observed as follows (at page 2238):

"An explanation, as was found in *Bihta Co-operative Development Cane Marketing Union Ltd., and Another Vs. The Bank of Bihar and Others*, may only explain and may not expand or add to the scope of the original section. In *The State of Bombay and Another Vs. The United Motors (India) Ltd. and Others*, it was found that an explanation could introduce, a fiction or settle a matter of controversy. Explanation may not be made to operate as "exception" or "proviso". The construction of an Explanation, as was held in *The Collector of Customs, Calcutta and Another Vs. G. Dass and Co. and Others*, must depend upon its terms and no theory of its purpose can be entertained unless it is to be inferred from the language used. It was said in *Burmah Shell Oil Storage and Distributing Co. of India, Ltd. and Another Vs. The Commercial Tax Officer and*

Others, , that the explanation was meant to explain the Article and must be interpreted according to its own tenor and it was an error to explain the Explanation with the aid of the Article to which it was annexed."

His Lordship, however, observed again as follows (para 32):

"We have to remember what was held in Dattatraya Govind Mahajan and Others Vs. State of Maharashtra and Another, that mere description of a certain provision, such as "Explanation" is not decisive of its true meaning. It is true that the orthodox function of an explanation is to explain the meaning and effect of the main provision to which it is an explanation and to clear up any doubt or ambiguity in it, but ultimately it is the intention of the legislature which is paramount and mere use of a label cannot control or deflect such intention..... In Hiralal Rattanlal Vs. State of U.P. and Another etc. etc., , it was ruled that if on a true reading of an Explanation it appears that it has widened the scope of the main section, effect be given to legislative intent notwithstanding the fact that the legislature named that provision as an Explanation. In all these matters Courts have to find out the true intention of the legislature."

Therefore, the fact that the Explanation is appended to Section 2(33B) is not decisive. In our view, having regard to the intention of the Legislature to confer a right of purchase to a larger extent, the Explanation to Section 2(33B) must be held to have been intended to give a wider meaning to the main provision and that the Explanation could indeed be treated as an independent provision.

21. Another aspect of the matter is that there was no right to purchase conferred on a kudikidappukaran before 1-4-1960. If there was such a right, it might have perhaps been open to contend that only such kudikidappukaran in whom such a right to purchase became vested prior to 1-4-1960, would be entitled to the extent mentioned in Explanation to Section 2(33B) referable to a panchayat (that is, ten cents) and that if the right to purchase accrued subsequent to 1-4-1960 the deeming provision in the Explanation would not apply. But that is not the position. It is not possible even to raise such a contention inasmuch as there was no right of purchase conferred on a kudikidappukaran prior to 1-4-1960. Such a right was conferred only with effect from 1-1-1970. The Kerala Agrarian Relations Act, 1960 was struck down by the Supreme Court. The Kerala Stay of Eviction Proceedings Act, 1957 did not confer any right of purchase on a "kudikidappukaran". Thereafter we have the Kerala Ryot-wari Tenants and Kudikidappukars Protection Act, 1962 and the Kerala Tenants and Kudikidappukars Protection Act, 1963, both of which did not also confer any right of, purchase. Even the Travancore-Cochin Prevention of Eviction of Kudikidappukars Act (Act XIII of 1955) did not confer any such right of purchase. It is, therefore, not possible to argue that the deeming provision in the Explanation applied only to a right of purchase existing prior to 1-4-1960.

22. For the aforesaid reasons, we hold on Point No. 2 that notwithstanding the

fact that the kudikidappu is located within the Trivandrum Corporation when the petitioner became vested with a right u/s 80A(1) to purchase the kudikidappu in 1978-79, so far as the extent which the petitioner is entitled to purchase is concerned, it is not three cents, but is ten cents in view of Clause (i) of the second part of the Explanation in Section 2(33B) and that is the extent which she would be entitled to purchase u/s 80A(3). We hold in favour of the petitioner on Point No. 2.

23. Before we part with this case, we may state as follows : On the language of Section 2(33B), no other conclusion appears possible, though as learned counsel for the contesting respondent put it emphatically and graphically, a kudikidappukaran of the mid-twenty first century in a pre.-1 -4-1960 Panchayat area can still claim ten cents despite all urbanisation of, and development in, the locality. It is also not discernible why the benefit pertaining to pre.-1-4-1960 location should be accorded to persons who acquired the very right to be kudikidappukars after 1-1-1970. No anterior or vested rights of theirs have been affected by the inclusion of the Panchayat in the Corporation area. But the matter pertains to the realm of legislative policy, and when the legislature has chosen to confer such a right, it is not for this Court to hold otherwise, in acceptance of the submissions made by the contesting respondent. It is a matter for the legislature to intervene, if so felt.

For the aforesaid reasons, the revision petition is allowed and the order of the Land Tribunal is set aside. The petitioner is entitled to purchase ten cents of land as stated above u/s 80B of the Act. No costs.