

(1978) 10 MAD CK 0028
In the Madras High Court
Case No : C R. P.No. 1629 of 1976

M.V. Nataraja Pillai

APPELLANT

Vs

The Municipal Council Srirangam

RESPONDENT

Date of Decision : 19-10-1978

Acts Referred:

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 73

Citation : (1978) 10 MAD CK 0028

Hon'ble Judges : Ramanujam, J

Bench : Single Bench

Advocate : T.R. Rajaraman, for the Appellant;

Final Decision : Dismissed

Judgement

Ramanujam, J.—This revision is directed against the order of the Land Tribunal holding that the lands held by the petitioner as a tenant will come within the scope of the Tamil Nadu land Reforms (sic) of Ceiling on Land Act, 1961 hereinafter referred to as the Act and directing the Authorized Officer to determine the tenant's ceiling area. The Municipal Council, Srirangam leased out certain lands to the petitioner herein for cultivation. The land so leased out is an extent of 11.64 acres. The petitioner, apart from the lands taken on lease, owns 4.63 acres. The aggregate extent held by him both as owner and as lessee thus came to 16.27 acres. The Municipal Council, Srirangam initiated proceedings under S. 17 of the Act for determination of the tenant's ceiling area and for a direction for restoration of the excess and to the Municipal Council. The petitioner however resisted that application contending that as the lands owned by the Municipal Council have been exempted under S. 73 of the Act, S. 17 cannot be invoked by the Municipal Council to get back from the petitioner the excess area over and above the tenant's ceiling area fixed under the Act. This defense was accepted by the Authorized Officer and the application under S. 17 filed by the Municipal Council had been dismissed.

2. When the matter was taken in appeal to the Land Tribunal, it took the view

that since the lands in question though owned by the Municipal Council are actually held by the tenant-petitioner herein the tenant's ceiling area can be determined under the Act, notwithstanding the fact that the ownership of the lands has vested with the Municipal Council, in this view the Tribunal directed the Authorized Officer to proceed with the enquiry under S. 17 of the Act, for determination of the tenant's ceiling area. The said view of the Tribunal has been challenged before me. The learned counsel for the petitioner refers to S. 73 of the Act and submits that in view of the total exemption in respect of the lands belonging to the Municipal Council no proceedings under S. 17 could lie. S. 73 (i) of the Act gives exemption In respect of lands held by any local authority. In this case, though the lands are Owned by the local authority it-is held by the tenant, petitioner. Therefore, so long as the lands are not held by the owner, namely, the local authority, the exemption cannot apply. Admittedly the petitioner is holding the lands belonging to the local authority as a tenant. S. 60 fixes the cultivating tenant's ceiling area. S. 62 authorizes the Authorized Officer to take possession of the land in excess of the cultivating tenant's ceiling area Therefore, the proceedings for determination of the tenant's ceiling area with reference to the lands held by the petitioner as a tenant cannot be said to be barred as a result of the exemption provision contained in S. 73. I am not inclined to agree with the contention of the learned counsel that an owner can also be said to hold the land, in view of the definition "to hold", and therefore, the local authority should be taken to hold the lands in question so that the exemption provision will straightway be attracted, I do not see how a land can be held by two persons at the same time, the owner as well as the tenant. At a particular time either the owner or the tenant should hold the property. In this case as the petitioner actually held the property as a tenant the local authority cannot be said to have held the property within the meaning of "to hold land" under S. 3 (9) of the Act. In this view of the matter, in respect of the leasehold lands held by the petitioner the provisions of the Act for the determination of the tenant's ceiling area will stand attracted, and therefore proceedings taken under S. 17 of the Act in this case were valid. In this view, the order of the Tribunal has to be up held. The civil revision petition is therefore dismissed. No costs.