

(1988) 10 KL CK 0008
In the High Court Of Kerala
Case No : C.R.P. No. 1530 of 1987

P. Sarojini

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 12-10-1988

Acts Referred:

Kerala Land Reforms Act, 1963 — Section 100(2A), 84(1A), 85(8)

Citation : (1988) 2 KLJ 683

Hon'ble Judges : M.M. Pareed Pillay, J

Bench : Single Bench

Advocate : M. Gopalan, for the Appellant; P. Santhalingam and K.J. Eranimose, Government Pleader Harun-al Rasheed, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Pareed Pillay J.

1. Revision Petitioner is the claimant who filed petition u/s 85 (8) of the Kerala Land Reforms Act. The Taluk Land Board by order dated 30-10-1976 called upon the declarant to surrender 16 acres 41 cents. Declarant challenged it by filing C.R.P. 5484 of 1976. By judgment dated 27-1-1977 only 5 cents property exempted by this Court. Revised order was accordingly passed on 14-3-1977. Declarant filed OP. 3541 of 1975 before this Court. This Court by judgment dated 11-6-1981 directed the Taluk Land Board to consider the validity of the gifts. Taluk Land Board found 4 acres 92 cents alone were eligible for exemption. So balance to be surrendered by the declarant is 10 acres 44 cents. Contention of the revision petitioner is that the Taluk Land Board ought to have exempted the gift made in favour of the grand-children by the declarant Gift deed No. 522 of 1970 was executed by the declarant to his grand-children born to his daughter, Sarojini (revision petitioner). The question to be considered is whether the gift in favour of a grand-daughter of the declarant is protected u/s 84(1A) of the Act. Section 84(1A) was introduced by Act 32 of 1969 to validate gifts by a person owning or holding land in excess of the ceiling area in favour of his son or

daughter or the son or daughter of his predeceased son or daughter. It cannot be extended to any other category of donees. To attract Section 84 (IA) the essential pre-requisite is that the gift must be in favour of the donor's son or daughter or the son or daughter of his predeceased son or daughter. A gift in favour of a grand-child or grand-children of the donor when his or their father or mother is alive cannot get the benefit of Section 84(1A) of the Act.

2. In the present case the declarant has gifted the property to the revision petitioner's children. As the revision petitioner is very much alive, the gift by the donor in favour of his grand-children cannot come u/s 84(1A) of the Act. the Taluk Land Board was justified in holding that the gift in favour of the grand-children is not valid as they are not grand-children of predeceased son or daughter of the donor. Taluk Land Board's finding that gift given by Ponnu to his grand-children is not valid under the Land Reforms Act does not warrant interference.

3. Another contention of the revision petitioner is that the order of the Taluk Land Board was signed only by the. Chairman and not by the Members. Section 100 (2A) of the Act postulates that the functions of the Taluk Land Board can be performed by the Chairman alone or by the Chairman and any one or more of the other, members, of the Board. This will undoubtedly show that Chairman alone can perform the functions of the Board and in a case where there are other, members it will have to be carried out by him and other members of the Board. Rules framed under the Kerala Land Reforms (Tenancy) Rules 1970, makes the position abundantly clear. Rule 103A of the Kerala Land Reforms (Tenancy) Rules, 1970 states that every final order of the Taluk Land Board shall be written by the Chairman of the Taluk Land Board and circulated to the other members who may either Agree to the order or write separate order agreeing or disagreeing to the order written by the Chairman. Rule 103 A (3) makes it clear that where the Members of the Taluk Land Board differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority. It is Urged that the Chairman alone had signed the order and hence it has no validity. There cannot be any doubt that under Rule 103A the order of the Taluk Land Board has to be signed by the Chairman of the Taluk Land Board and other members when they are there. As the revision petitioner has not raised a contention in the C.R.P. to the effect that the Order for the Taluk Land Board has not been signed by the other members, the attempt to raise it by a mere oral submission at the fag end cannot be allowed. If the revision petitioner wanted to raise such a contention, she could have raised it at any lime before the C.R.P. was taken up for hearing. As that has not been done, the belated contention cannot be countenanced.

There is no merit in the Civil Revision Petition and hence the same is dismissed. There is no order as to costs.