
(1957) 01 MAD CK 0016
In the Madras High Court

Pandarasannathi, Thiruvaduthurai Adhinam

APPELLANT

Vs

Malayan Samban and Others

RESPONDENT

Date of Decision : 21-01-1957

Acts Referred:

Tanjore Tenants and Pannaiyals Protection Act, 1952 — Section 10

Citation : (1957) 2 MLJ 108

Judgement

1. These two writ petitions are by the same petitioner and raise a common point regarding the construction of the Madras Indebted Agriculturists (Repayment of Debts) Act, 1955 (Act I of 1955) as affecting the provisions of the Tanjore Tenants and Pannaiyal Protection Act, 1952 (Act XIV of 1952).

2. The following facts have to be stated to appreciate the difficulty that arises as a result of the impact of these two pieces of legislation. The petitioner, the head of the Thiruvaduthurai mutt is the owner of considerable landed property in Tanjore district. Two of the tenants in cultivation of the lands of the mutt are respondents in these two petitions. After the coming into force of Madras Act XIV of 1952 these tenants executed in February, 1953, muchilikas u/s 9 of that Act agreeing to pay stated amounts of paddy for each fasli. These tenants fell into arrear in regard to the grain rent payable for fasli 1362. The landlord thereupon filed petitions before the Revenue Court, Tanjore u/s 10 of Act XIV of 1952.

3. Section 10 enacts:

(1) No cultivating tenant shall be evicted...unless

(b) he has failed to pay any rent accruing due after the commencement of this Act within two months of the date stipulated in the lease deed....

(2) (a) No tenant shall be evicted under this section except on an application made in that behalf to the Revenue Court

(b) The Revenue Court shall, on such application, inquire into the matter and give its decision

(c) Upon any application made for the eviction of a tenant on the ground of non-payment of rent...the Revenue Court shall, before passing an order for eviction, call upon the tenant, by notice in the prescribed manner, to tender to the landowner the rent or amount in arrear together with the cost of the proceedings within thirty days from the date of the notice, and if the tenant does not comply with such notice, the Revenue Court shall pass an order for his eviction.

The applications of the landlord-petitioner were made under this provision. These however were dismissed in limbo by the Revenue Court for the reason thus stated:

The arrears claimed in this petition relate to fasli 1362 (for the period ending 30th June, 1952). In view of the provisions contained in Act 1 of 1955, the petitioner can collect this amount through civil Court if so advised. The petition is dismissed.

This was the order in both the petitions which is the subject-matter of these two writ petitions.

4. I feel handicapped by the fact that the cultivating tenants have not appeared before me in either of these petitions. The ground urged by learned Counsel for the petitioner was that the Tanjore Tenants and Pannaiyal Protection Act (Act XIV of 1952) was a self contained enactment and that the Revenue Court was wrong in travelling outside that Act in order to find out the rights of the tenants. He urged that Section 10, portions of which I have set out earlier clearly entitled, a landlord to an order for eviction in the event of the tenant defaulting to pay arrears of rent accruing due after the commencement of the Act and that this absolute obligation could not be deemed to have been modified by a general enactment like the Madras Act I of 1955 whose territorial operation extends to the entirety of the State and not confined to the rents payable by tenants in specified areas. It was his further contention that the Tanjore Tenants and Pannaiyal Protection Act imposed obligations on the landlord and the tenant each being the consideration for the other and it was in that context that the restriction on the right of the landlord to evict his tenants was imposed. He therefore urged that the Revenue Court erred in holding the provisions of Act I of 1955 as applicable to determine the scope of or the rights of the landholder provided for in Section 10 of Act XIV of 1952.

5. So far as I am aware the question in this form is coming up for the first time in these petitions and the matter is therefore uncovered by authority. The question ultimately turns on whether the provision in Section 10 rendering rent to be in arrear when it is not paid on the dates fixed either by the contract recognised by the statute or fixed by the statute itself is modified by Act I of 1955. It is therefore necessary to advert to the scope of the language of the relevant provisions of Act I of 1955 to consider whether its provisions could be treated as an implied amendment or modification of Section 10 of the Tanjore Tenants and Pannaiyal Protection Act (Act XIV of 1952). Madras Act I of 1955 is entitled "an Act to give relief to indebted agriculturists in the State of Madras". It

is not in dispute that the cultivating tenants who are respondents here are agriculturists within the meaning of Act I of 1955. I am pointing this out because there may be cultivating tenants under the Tanjore Tenants and Pannaiyal Protection Act who may not fall within the category of agriculturists within Act I of 1955. The resulting position would be that if Act I of 1955 modified the contractual or statutory rights created or recognised by Act XIV of 1952, the modification would have affected only a particular class of cultivating tenants and not all. Sections 3 and 4 of Act I of 1955 are, what may be termed, the operative provisions of that enactment which confer the relief for which the Act is intended. Section 3 lays an embargo on the filing of suits or of applications for execution of decrees in respect of debts against agriculturists: The debts for which this relief is provided is defined in Section 2(b) in these terms:

"debt" means any liability in cash or kind, whether secured or unsecured, due from an agriculturist on the 1st October, 1953 whether payable under a contract or decree or order of a Court, civil or revenue or otherwise, but shall not include...[categories which it is unnecessary to set out because they are not relevant in the present context.]

6. On this definition one thing is clear, that is, that, an arrear of rent is "a debt". Section 3(1) of Act I of 1955 enacts:

3 (1). No suit for recovery of a debt shall be instituted, and no application for execution of a decree in respect of a debt shall be made, against any agriculturist in any civil or revenue Court before, the expiry of four months from the commencement of this Act.

It was apparently by applying this section that the Revenue Court dismissed the petition u/s 10 of Act XIV of 1952. I am clearly of the opinion that Section 3(1) is incapable of being applied to proceedings u/s 10 of Act XIV of 1952 because an application u/s 10 is not "a suit" for the recovery of "a debt" nor is it possible to treat it as "an application for the execution of a decree" in respect of "a debt".

The Order of the Revenue Court cannot stand. I have next to consider the operation of Section 4 of Act I of 1955. Section 4(1) enacts:

4(1) Notwithstanding any law, custom contract, or decree of Court to the contrary, an agriculturist shall be entitled to pay within four months of the commencement of this Act the interest due on any debt due by him up to the commencement of this Act and one eighth of the principal outstanding or one fourth of the total amount outstanding whichever is less, and the balance of the debt in three equal annual instalments on or before the 1st July of each of the succeeding three years with the interest due on such instalment upto that date.

The other Sub-sections of Section 4 relate to the manner in which decrees against "agriculturists" for "debts" as defined ought to be executed and give effect to the relief of instalments granted by Section 4(1). Section 5 is a consequential provision following Section 4 and does not need any examination

in this context. The question I have now to consider is whether Section 4(1) which I have set out does not effect a modification in the contractual term of the lease to the present landlord as to the time when the rent or debt becomes an arrear. The opening words of Section 4(1) "Notwithstanding any law, custom", etc., are apt to take in any and every law on the point and I do not see any method by which these words can be construed as not applying to or excluding Act XIV of 1952.

7. No doubt the Sub-sections of Section 4 of Act I of 1955 which follow Sub-section (1) would not apply to proceedings before the Revenue Court u/s 10 of Act XIV of 1952. But for this I am unable to hold that the operation of Section 4(1) could be excluded from the "debt "constituted by the arrears of rent due by a tenant under Act XIV of 1952. The language of Section 4(1) enables it to stand as an independent provision preventing a debt from being presently due and postponing its exigibility to the period specified in the Sub-section.

8. The result would be that the order of the Revenue Court dismissing the petitions of the petitioner should be set aside and the Revenue Court should proceed to conduct the enquiry as to the rent payable by each of the tenants by applying Section 4(1) of Act I of 1955. The petitions are allowed and the rules are made absolute. The Revenue Court will restore the petitions to its file and deal with the petitions in the manner stated above. There will be no order as to costs.