
(1957) 08 MAD CK 0024
In the Madras High Court

Pubbiri alias Perumal Goundan

APPELLANT

Vs

S. Govinda Mudaliar and Others

RESPONDENT

Date of Decision : 19-08-1957

Acts Referred:

Constitution of India, 1950 — Article 14, 19

Citation : (1957) 2 MLJ 617

Hon'ble Judges : Ramaswami, J

Bench : Division Bench

Judgement

Ramaswami, J.—Crl. M.P. No. 740 of 1957 is an application for withdrawal of M.P. No. 46 of 1957 from the file of the Sub-Divisional Magistrate of Dharmapuri and disposal of the case in the High Court or re-transfer of the same to the Sub-Divisional Magistrate, Dharmapuri, after deciding the question of law and Cr. M.P. No. 741 of 1957 is for stay of further proceedings.

2. The facts are: The Board of Trustees of Sri Perumal Temple Maruderi Village, Salem District, have obtained a certificate u/s 87 of Madras Act XIX of 1951 and applied to the Sub-Divisional Magistrate, Dharmapuri, for execution of the same as laid down in the said section. The persons who were in possession of the lands and from whom delivery was asked for are the poojari and lessee from that poojari. The contention of the lessee is that he is protected from being evicted u/s 3 of Madras Act XXV of 1955 as extended by Act XIV of 1956 as a cultivating tenant. It is contended that the provisions of Section 87 of Madras Act XIX of 1957 are invalid because they are in conflict with Section 3 of Act XXV of 1955; secondly the said provisions offend Articles 14 and 19 of the Constitution of India.

3. It is in these circumstances that the above application is filed and stay is asked for.

4. On a review of the entire circumstances of the case, I have come to the conclusion that this is a totally unsubstantial petition for the following reasons.

5. Section 87 of Act XIX of 1951 was enacted because as set out in the

Statement of Objects and Reasons for Act X of 1946.

It is notorious that trustees dismissed by committees under Act XX of 1863 have in several instances refused to hand over possession to the person newly appointed and have defied the committees by remaining in possession pending the end of protracted litigation started by them. This clause is intended to end the scandal. Under it, trustees who have been removed or dismissed or have become disqualified to hold office may be dispossessed by summary processes of Court.

But unfortunately even this amended provision did not achieve its full object because limitations were placed thereon by certain decisions of this High Court. Thereafter this Section 87 has been enacted under which a judicial enquiry is made by a hierarchy of tribunals appointed under the Act and a certificate is then issued and on the production of which it has got to be executed by the concerned Magistracy. Therefore, this provision does not in any way conflict with Section 3 of Act XXV of 1955, since all that the Magistrate has to do is to put back the temple in possession of the properties covered by the certificate. Section 3 of Act XXV of 1955 defines a cultivating tenant in relation to any land means a person who carries on personal cultivation on such land under a tenancy agreement, express or implied, and includes a tenant holding over and heirs of such persons but does not include mere intermediary or his heirs. This assumes that the person under whom the actual cultivator purports to cultivate is a person capable of creating a tenancy. If on the other hand that person is in law incapable of creating any such tenancy and is a mere interloper or trespasser, the person purporting to cultivate under such a person cannot claim the benefits of Act XXV of 1955. Therefore, there is no question of any repugnancy or contradiction or overlapping between Section 87 of Act XIX of 1951 and Section 3 of Act XXV of 1955.

6. Turning to Articles 14 and 19 of the Constitution, on the well-settled principles relating thereto, Section 87 of Act XIX of 1951 certainly does not offend those articles. In regard to Article 14 which lays down that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India, it does not mean that the same law should apply to all persons. It does not mean, that every law should have universal application, for all persons are not by nature, attainment or circumstances in the same position, and the varying needs of different classes of persons often require separate treatment. It does not refuse to take note of differentiations in economic and social functions nor of the need for special types of quasi-judicial tribunals due to the growing tendency towards the enlargement of State intervention in the economic and social life of the Country. In fact identical treatment in equal circumstances would amount to inequality. Hence a reasonable classification is not only permitted but is necessary if society is to progress. The fundamental right guaranteed by way of equality before the law or the equal protection of the laws had always been understood as not implying an identity of laws as regards

all citizens in respect of particular subject-matter of legislation, but as meaning only that the relevant law must operate equally as regards all persons in the same situation with reference to the subject-matter of particular legislative provision. The guarantee of equal protection of the law means the protection of equal laws. It forbids class legislation, but does not forbid classification which rests upon reasonable grounds of discrimination. It does not prohibit legislation which is limited either in the objects to which it is directed or by the territory within which it is to operate. In short if the laws be otherwise unobjectionable, all that is required is that it should be of general application to the class or area to which they apply. Similarity of place, circumstances and condition might constitute the basis for classification. Particular evils may constitute the basis for classification. Classification should not be arbitrary or discriminatory. Classification does not become obnoxious simply because it produces some inequality. Classification is not obnoxious simply because it has no application to some persons. Classification is not obnoxious simply because the provisions of law of a State are discriminatory in contrast with the law of another State on the same subject. The presumption is in favour of reasonableness. There is no infallible test to determine if a classification violates the principles of equality. There can be no doctrinaire approach. Mathematical nicety and perfect equality are not required and the classification need not be reasonable to the satisfaction of the Court. The test is whether it is so utterly unreasonable that the legislature could not have believed it to be needed in public interest. There should be reasonable relation between distinction made and the: object of legislation.

7. Bearing these principles in mind, if we examine the history of Section 87, which has been fully discussed in *In Re: Chinnathambi*, we find that Section 87 of Act XIX of 1951 does not offend Article 14 as has been held in that Bench decision to which I was a party.

8. In regard to Article 19, the only relevant provision is Clause (f) "to acquire, hold and dispose of property." Proviso (5) itself states that nothing in this Sub-clause, will prevent a State from making any law imposing reasonable restrictions on the exercise of any of the rights conferred by the said Sub-clause in the interests of the general public. Once again the history of Section 87 of Act XIX of 1951 already referred to shows that this restriction has been imposed in the general interests of the public and of the Hindu Religious Endowments which form such a large part of our economic and social life of the public in particular.

9. In the result, both the petitions are dismissed.