
(1957) 08 MAD CK 0008
In the Madras High Court

Pubbiri

APPELLANT

Vs

S. Govinda Mudaliar and Others

RESPONDENT

Date of Decision : 19-08-1957

Acts Referred:

Citation : (1958) CriLJ 523 : (1957) 70 LW 957

Hon'ble Judges : Ramaswami, J

Bench : Single 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 the same to the Sub-Divisional Magistrate, Dharmapuri, after

deciding the question of law and Crl. M. P. No. 741 of 1957 is for stay of further proceedings.

2. The facts are: The Board of Trustees of Sri Penimal Temple, Maruderi village, Salem Dt. have obtained a certificate u/s "87 of Madras Hindu

Religious and Charitable Endowments Act, XIX of 1951 and applied to the Sub-Divisional Magistrate of 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

tion that Polaris. The contention of the lessee is that he is protected from being evicted u/s 3 of Madras Cultivating Tenants Protection Act, XXV

of 1955, as extended by Madras Cultivating Tenants Protection (Amendment) 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 the Madras Hindu Religious

Endowments (Amendment) Act, X of 1946

It is notorious that trustees dismissed by committees under the Religious Endowments Act (Central 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

been 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 to law incapable of creating any such tenancy and is mere interloper or

trespasser, the persons 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

unequal 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 any 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 laws 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 |o 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 evil

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 or 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 *Prattipati Dandaiah and Another Vs.*

Nori Venkatrama Dikshitulu, Managing Trustee of Sri Brahmeswaraswami Temple at Vathcharukur and Others, 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

restriction¹ 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.