

(1972) 06 MAD CK 0031

In the Madras High Court

Case No : Civil Revision Petition No. 158 of 1971

Rajagopal Pillai

APPELLANT

Vs

The State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 28-06-1972

Acts Referred:

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 10, 10(1), 10(2), 7, 8

Citation : AIR 1973 Mad 68 : (1972) 85 LW 829

Hon'ble Judges : Kailasam, J

Bench : Single Bench

Judgement

This Judgment has been overruled by : Government of Union Territory of Pondicherry Vs. Mohammed Hussain (Dead) by Lrs., (1994) 7 JT 1 : (1994) 3 SCALE 77 : (1994) 5 SCC 121 : (1994) 1 SCR 282 Supp

Kailasam, J.

1. The only point that is raised by Mr. Parasaran, the learned counsel for the petitioner, is that the authorities below were in error in including 15.97 acres, which were settled in the name of Jayalakshmi, who got married on 28-5-1961, i.e., after the commencement of the Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961, and before the notified date. The question for consideration is whether this extent has to be included within the ceiling area of Rajagopala Pillai, the father of Jayalakshmi.

Section 7 of the Act provides that on and from the date of the commencement of this Act, no person shall, except as otherwise provided in this Act, but subject to the provisions of Chapter VIII, be entitled to hold land in excess of the ceiling area. In other words, no person is permitted to hold land in excess of the ceiling area on the date of the commencement of the Act, except as otherwise provided in this Act. Section 8 of the Act requires furnishing of return by person holding land in excess of 30 standard acres on the date of the commencement of the Act. Section 10 of the Act prescribes the method by which the preparation and

publication of draft statement as regards land in excess of the ceiling area should be effected. Section 10(2)(a) of the Act, which is relevant for the purpose of deciding the point raised, can be extracted in full:

"Section 10(2)(a). For the purpose of calculating for the first time the ceiling area of a family holding land on the date of the commencement of this Act in excess of 30 standard acres, the authorised officer shall take into account only those members of that family who are alive on the notified date. But for the purpose of calculating the ceiling area of such family for the second or for any subsequent time, the authorised officer shall take into account only those members of that family who are alive on the date of the preparation of the draft statement under sub-section (1)."

2. Though Sections 7, 8 and 10 relate to preparation and publication of the record by a person holding land on the date of the commencement of the Act, Sec. 10(2)(a) of the Act prescribes the mode for fixing the ceiling of a family taking into account deaths between the date of the commencement of the Act and the notified date. "Family" is defined in relation to a person means the person, the wife of or husband as the case may be, of such person and his or her minor sons and unmarried daughters, and minor grandsons and unmarried grand-daughters in the male line, whose father and mother are dead. We are concerned here with an unmarried daughter. On the date of the commencement of the Act, Jayalakshmi, according to the definition, should be a member of Rajagopala Pillai's family. But on the notified date, according to the definition, she will not be a member of the family, as by that date she became married. Now Section 10(2) provides that for the purpose of calculating the ceiling area of a family holding land on the date of the commencement of this Act in excess of 30 standard acres, the authorised officer shall take into account only those members of that family who are alive on the notified date. Therefore, the ceiling area of the family should be fixed with reference to the state of affairs on the notified date. If the member of a family was dead between the date of the commencement of the Act and the notified date, the authorised officer shall take into account only those members that were alive on the notified date. For calculating the ceiling area of a family for the second or for any subsequent time, the authorised officer shall take into account only those members of the family who are alive on the date of the preparation of the draft statement under sub-section (1).

The wording of the section is clear that in the event of a death in the family between the commencement of the Act and the notified date, the person will have to be excluded in fixing the family holding. The question is whether the subtraction to the family by a minor becoming a major or by an unmarried daughter getting married, is not specifically provided for in the section. But the provision that the authorised officer should take into account the members of the family who are alive on the notified date would logically mean that the authorised officer could fix the members of the family as on the notified date by

taking into account the subtraction by the minor becoming major or by the unmarried daughter getting married, who are by virtue of the definition "family" excluded from the definition "family". Justice Ramanujam in C. R. P. No. 854 of 1967 (Mad) held that when a minor on the date of the commencement of the Act becomes a major before the notified date, his shares should be excluded in fixing the family ceiling area. What is applicable to a minor is applicable to an unmarried daughter, who got married between the commencement of the Act and the notified date. The contention, therefore, of the learned counsel for the petitioner has to be accepted and the order of the Subordinate Judge, Land Tribunal, will have to be modified by excluding 15.97 acres from out of the extent included in the area as belonging to Rajagopala Pillai.

3. To this extent alone the civil revision petition is allowed. No order as to costs.
4. Revision allowed.