
(1956) 09 MAD CK 0028
In the Madras High Court
Case No : Writ Petition No. 528 of 1955

S. Ar. St. Arunachalam Chettiar	Vs	APPELLANT
S.N.S. Narayanan Chettiar and others		RESPONDENT

Date of Decision : 19-09-1956

Acts Referred:

Citation : (1956) 09 MAD CK 0028

Hon'ble Judges : Rajagopala Ayyangar, J

Bench : Single Bench

Advocate : R. Gopalaswami Ayyangar, for the Appellant; A. Sundaram Ayyar and V. Srinivasan for The Spt. Govt. Pleader, for the Respondent

Judgement

Rajagopala Ayyangar, J.—The question arising for consideration in this writ petition is as regards the proper construction of S. 56 of the

Madras Estates (Abolition and Conversion into Ryotwari) Act of 1948 (Madras Act XXVI of 1948). The petitioner herein and the first

respondent were rival claimants to the grant of ryotwari patta in regard to certain land as in as estate notified and taken over by the Government. S.

56 (1) of the Act under which the application was filed by the petitioner enacts :

(1) Where after an estate is notified a dispute arises as to (a) whether any rent due from a ryot for any fasli year is in arrear or (b) what amount of

rent is in arrear or (c) who the lawful ryot in respect of any holding is, the dispute shall be decided by the Settlement Officer.

The next sub section runs:

(2) Any person deeming himself aggrieved by any decision of the Settlement Officer under Sub-S, (1) may within two mouths from the date of the

decision or such further time as the Tribunal may in its discretion allow, appeal to

the Tribunal and its decision shall be final and not liable to be questioned in any Court of law.

2. No objection was raised by the first respondent to the jurisdiction of the Settlement Officer to proceed with the enquiry and this officer after a full investigation of the evidence decided in favour of the petitioner. The first respondent, thereupon filed an appeal to the Tribunal under S. 56 (2)

of the Act and the Tribunal set aside the order of the Settlement Officer on the ground that he had no jurisdiction to entertain the application. The

reasons assigned by them for this conclusion may be stated in their own words :

In this case we are concerned only with S. 56, Cl. (1), Sub-Cl. (c) as the dispute is as to who is the lawful ryot in respect of the holding in

question. The conditions required to be satisfied under S. 56, Cl. (1) (c) are: (1) that the dispute should arise after the notification of the estate and

(2) that the dispute should relate to a holding.....It is clear from the evidence that the dispute between the parties as to who is the lawful ryot of the

land in question arises before the notification of the estate. That being so the condition that the dispute should arise after the notification of the

estate as required by S. 56 (1) of the Act is not satisfied.

3. On this reasoning the Tribunal held that the proceedings before the Assistant Settlement Officer were without jurisdiction and, therefore, set

aside his order. It is the correctness of this construction of S. 56 that is challenged by the petitioner in this writ petition. The State of Madras has

been impleaded as the third respondent in these writ proceedings and they, through the Spherical Government pleader support the writ petitioner

and contend that the interpretation put upon the section by the Tribunal is wrong and has, therefore, to be set aside.

4. As this is probably the first occasion when the construction of S. 56 of the Act has come up before this Court, I think it is necessary to discuss

the matter in some detail. The entire argument of the Tribunal is rested on the collocation of the words "dispute arising after an estate is notified." In

the first place S. 56 occurs in the chapter headed "Miscellaneous." Its position is just after S. 55 which deals with collection of arrears of rent by

the landholder after the notified date. Sub-Ss. (a) and (b) of S. 55 (1) refers to disputes which might arise in connection with the liability of the ryot

to pay rent or its quantum. A reference to S. 55 would show that the liability for

the rent or its quantum may be in respect of a period anterior to the notification. If S. 56 were to be the machinery for deciding the disputes in relation to the rent payable for faslis 1356 and 1357 it would follow that the disputes referred to in the opening words of S. 56 (1) would not exclude disputes whose origin was earlier than the notified date but which have continued since then. If, therefore, a dispute in relation to matters mentioned in S. 56 (1) and (b) would take in disputes originating earlier than the notified date but continuing even, afterwards, the nature of the dispute referred to in Sub-Cl (c) of S. 56 (1) would not be different. In my opinion, the proper construction of that section is to hold that all disputes which are factually present after the notified date come within the jurisdiction of the Settlement Officer and within S. 56 (1) Disputes which are excluded are only those in regard to which there have been binding adjudications by the ordinary Courts before the date or matters pending before other authorities before the notified date. In regard to all others the dispute ""arises"" after the notified date within the meaning of S. 56 (1) if notwithstanding its having originated at an earlier date it continues thereafter, for the dispute is a difference which exists until it is settled and it is the existence of the dispute that is referred to in the section and not its origin. In this view the order of the Abolition Tribunal, Madras, in R.A. No. 3/3 of 1954 is set aside as erroneous. The Tribunal will consider the appeal before it on its merits and dispose of it in accordance with law. There will be no order as to costs in this writ petition.