
(1975) 02 MAD CK 0028

In the Madras High Court

Case No : Civil Revision Petition No's. 2244 and 2313 of 1972

S. Raja Iyengar and Another

APPELLANT

Vs

The Authorised Officer, Land Reforms

RESPONDENT

Date of Decision : 26-02-1975

Acts Referred:

Citation : (1975) ILR (Mad) 420

Hon'ble Judges : N.S. Ramaswami, J

Bench : Single Bench

Advocate : K. Srinivasan, for T. Rangaswamy Iyengar and A. Sundaram Iyer, for Thirumalai, for the Appellant; G.R. Lakshmanan, for Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

N.S. Ramaswami, J.—The two revision petitions are against the order of the Authorised Officer, Land Reforms, Madurai confirmed, in appeal, by the Land Tribunal, Madurai.

2. Sathimani, the Petitioner in Civil Revision Petition No. 2313 of 1972 is the unmarried daughter of Raja Iyengar, the Petitioner Civil Revision Petition No. 2244 of 1972. The family of Raja Iyengar held 50.84 standard acres out of which 27.16 acres are in the name of Raja Iyengar himself, 6.44 acres are in the name of his wife and 17.24 acres are in the name of Sathimani, the unmarried daughter (Petitioner in Civil Revision Petition No. 2313 of 1972). Sathimani is said to have got the above extent of land under a settlement deed executed in her favour by her grand-parents in the year 1959.

3. In the proceedings started under Act LVIII of 1961, hereinafter referred to as the Land Reforms Act, the Authorised Officer held that there was a surplus of 7.24 standard acres in the ceiling area of Raja Iyengar. This was on the basis that out of the 17.24 standard acres which are standing in the name of the unmarried daughter, only 10 standard acres can be retained. That view was

challenged before the Land Tribunal. When the appeals were pending, Act XVIII of 1970, hereinafter referred to as the Reduction Act, came into force. One of the modifications made by Section 2 of the Reduction Act is the introduction of explanation II to Section 3(14) which defined the word family. Under the above-said explanation II, unmarried daughters and unmarried granddaughters in whose favour land had been voluntarily transferred before the notified date by parents or grand-parents on account of natural love and affection, shall not be included in the family of a person. If this explanation is applicable, Sathimani the unmarried daughter of Raja Iyengar shall not be included as a member of Raja Iyengar's family, for the purpose of determining Raja Iyengar's holding provided the settlement by the grand-parents in the year 1959 is a voluntary transfer on account of natural love and affection.

4. The contention on behalf of the revision Petitioners had been that the provisions in the Reduction Act are declaratory in character and that therefore they must be given retrospective effect, the contention is that the provision contained in explanation II of Section 3 (14) should be applied even to the present proceedings which had commenced prior to the commencement of the Reduction Act. This contention is not tenable.

5. The Reduction Act came into force on 15th February 1970 and the notified date under this Act is 2nd October 1972, whereas the notified date under the Land Reforms is 2nd October 1962. The proceedings had started very much prior to the commencement of the Reduction Act. Sub-section (1) of Section 3 of the Reduction Act says that the proceedings taken under the Land Reforms Act before the date of the publication of the Reduction Act, may be continued or enforced in accordance with the provisions of the Land Reforms Act as if the Reduction Act had not been passed. But this provision is subject to Sub-section (2) of the said section which says that nothing in Sub-section (1) shall be deemed to, entitle any person to hold after the 15th day of February 1970, land in excess of the ceiling area under the Land Reforms Act as modified by Section 2 of the Reduction Act. A plain meaning of Section 3 of the Reduction Act, is that all proceedings which had been taken before the commencement of the Reduction Act should be continued and finalised as if the Reduction Act had not been passed. But that does not mean the person concerned can escape the reduction of the ceiling effected by the Reduction Act. While under the Land Reforms Act, the ceiling limit was 30 standard acres, it was reduced in the Reduction Act to 15 standard acres. Therefore, Section 3 of the Reduction Act says that the mere fact that the proceedings which were taken prior to the coming into force of the Reduction Act are continued and finalised as if the Reduction Act had not been passed does not mean that the ceiling area cannot be reduced from 30 standard acres to 15 standard acres.

6. In the present case, it is seen that only 7.24 standard acres have been held to be in excess of the ceiling area. This is as per the provisions of the Land Reforms Act without giving effect to the Reduction Act Only if the proceedings which had

been taken prior to the commencement of the Reduction Act are to be concluded as if the Reduction Act had not come into force [as it should be so done in view of Section 3(1) of the Reduction Act], the family of Rajalyengar would retain 43.60 standard acres. As already seen, out of the total extent of 50.84 standard acres only 7.24 standard acre are held to be in excess of the ceiling area. Needless to say that when the provisions of the Reduction Act are applied, the family of Raja Iyengar cannot retain 43.60 standard acres. But in the present proceedings, the provisions of the Reduction Act are not being given effect to. A separate proceedings has yet to be taken for fixing the ceiling area in accordance with the provisions of the Reduction Act. It is only then the question of excluding the unnamed daughter in whose favour land had been transferred by her parents or grand-parents as contained in explanation II to Section 3(14) introduced by the Reduction Act, would arise.

7. On behalf of the revision Petitioners, reliance is placed on the decision in *Fakir Mohamed and Anr. v. The State of Tamil Nadu* represented by the Collector of Thanjavur (Civil Revision Petition No. 1197 of 1971) by a Division Bench of this Court to which I was a party wherein it has been held that even in respect of proceedings taken prior to the coming into force of the Reduction Act, Section 21A introduced by the Reduction Act must be given effect to. But what was meant in that decision was that if by virtue of Section 3(2) of the Reduction Act the ceiling area is sought to be fixed in accordance with the provisions of the Reduction Act then such reduction of the ceiling area can be only subject to Section 21A, the introduction of which is one of the modifications made by the Reduction Act. It was observed:

It is u/s 2 of the Amending Act (Reduction Act) the ceiling area is reduced from 30 standard acres to 15 standard acres. But it is under the same section, Section 21-A has been introduced in the principal Act (Land Reforms Act). The modification effected by Section 2 of the Amending Act is not only the reduction of the ceiling area, but also the introduction of Section 21-A. In other words, the reduction is subject to Section 21-A introduced by the Amending Act. That means even in respect of proceedings which commenced under the old Act, the affected person can take advantage of the provisions contained in Section 21-A. Therefore if a transfer is valid u/s 21-A, that cannot be ignored in fixing the ceiling area just because the proceedings had been commenced under the provisions of the principal Act.

It would be clear that those observation were made on the assumption that in the proceedings even though taken prior to the coming into force of the Reduction Act, the ceiling area would be reduced to 15 standard acres by virtue of Section 3 (2) of the Reduction Act. Therefore it was pointed out that the modification effected by Section 2 of the Reduction Act being not only reduction of the ceiling area from 30 standard acres to 15 standard acres but also other modification such as the introductions of Section 21-A, while reducing the ceiling area to 15 standard acres all the other modification have also to be given effect

to (even though the proceedings might have been taken prior to the commencement of the Reduction Act). But in the present proceedings taken prior to the commencement of the Reduction Act, the ceiling area is fixed only as per the provisions of the Land Reforms Act and not in accordance with the Reduction Act. As and when the ceiling area is sought to be fixed as per the provision of the Reduction Act (Whether the proceedings were commenced prior to the commencement of the Reduction Act or not) then naturally all the modifications introduced by Section 2 of the Reduction Act have to be given effect to.

8. In *M.K. Hariharan Iyer v. The Authorised Officer, Land Reforms, Tirunelveli* (Civil Revision Petition No. 2598 of 1971) decided by me on 21st March 1976 (Short noted in 1974 T.N.L.N.J. 213) the question arose whether the son of a person who attained majority on 1st October 1970 is to be excluded from the family of the person. That was again a case where the proceedings had been taken prior to the commencement of the Reduction Act. I held that as far as those proceedings are concerned, the son who attained majority on 1st October 1970 (a day prior to the notified date under the Reduction Act) would be a member of the family of the person concerned. In so holding I have observed:

The principle enunciated by the Division Bench in Civil Revision Petition No. 1197 of 1971 regarding the interpretation of Section 3(2) of the Amending Act cannot be extended further and there is no warrant for the contention that in the present case even though proceedings had commenced very much prior to the coming into force of the Amending Act. The notified date should be taken to be 2nd October 1970 and not 2nd October 1962. (In the T.N.L.N.J. the figures and words "2nd October 1970 and not" are missing and that makes the sentence, as printed, rather meaningless.)

The reference to extending the principle in Civil Revision Petition No. 1197 of 1971 is somewhat misleading. I have already pointed out the purport of the decision in Civil Revision Petition No. 1197 of 1971 and therefore the question of extending the principles laid therein did not really arise.

9. In the present case, it is stated that the land standing in the name of Sathimani had been gifted to her by her grand-parents out of natural love and affection. If that be so, explanation II to Section 3(14) would apply. The settlement in her favour is said to be in the year 1959. That is undoubtedly prior to the notified date (2nd October 1970) contemplated by the Reduction Act. But the question of applying explanation II to Section 3(14) does not arise in the present proceedings, because as already seen, the ceiling area has been fixed only as per the provisions of the Land Reforms Act and not in accordance with the Reduction Act.

10. The revision petitions fail and they are accordingly dismissed. No costs.