
(1987) 01 KL CK 0025
In the High Court Of Kerala
Case No : C. R. P. No. 2194 of 1982

State	Vs	APPELLANT
Sankaran		RESPONDENT

Date of Decision : 05-01-1987

Acts Referred:

Kerala Land Reforms Act, 1963 — Section 81(1), 81(1)(q)

Citation : (1987) KLJ 104

Hon'ble Judges : K.G. Balakrishnan, J

Bench : Single Bench

Advocate : K.P.V.B. Ejman, for the Respondent

Judgement

K.G. Balakrishnan J.

1. This is a revision filed by the State challenging the order passed by the Taluk Land Board, Tellicherry in T. L. B. 1510/76 TLY. One Manoli Chellath Sankaran was the declarant in the above case. It was alleged that he had excess land. He claimed exemption in respect of 26.25 acres of land in R. S. 20 of Eranholi amsom. According to the declarant this area was water-logged and it is being used for soaking coconut husks. Out of this total extent 17.42 acres were purchased by one Chandran and others as per the sale deed in 1976. They contended that this property was being used for prawn fishing. The Revenue Inspector inspected the property and he stated that the entire area is water-logged. A commission was taken out at the instance of the declarant and the advocate commissioner filed a report on 21-7-1981. The commissioner reported that the entire 26.25 acres are water-logged and the same is used for catching prawn and for soaking husks and therefore it is commercial site. The Taluk Land Board accepted the report and held that this area was liable to be exempted u/s 81 (1) (q) of the Kerala Land Reforms Act.

2. u/s 81(1) (q) of the Kerala Land Reforms Act all property used as commercial site are liable to be exempted. The term "commercial site" is not defined in the

Kerala Land Reforms Act. The relevant meaning of word "commercial" has been defined in Webster's Dictionary as (1) of or belonging to trade or commerce, (2) made in large quantities for the market. The meaning of the word "commerce" has been explained in the Concise Oxford Dictionary as:

Exchange of merchandise or services, esp. on a large scale; buying and selling;

It is difficult to accept the contention that prawn fishing is commercial in nature, unless it is proved that large scale quantities of fish are caught and either sold or processed for the purpose of sale or export. It is also difficult to conceive that soaking of husks in small quantities would amount to a business of commercial in nature.

3. The evidence in this case consists of the reports of the Commissioner and the Revenue Inspector, In none of the reports it is stated that in the water-logged area they found soaking pits or coconut husks, The declarant had no case that this area was used for some other purpose. In the village records the area is classified as paddy field. The Revenue Inspector reported that since 1965 no paddy was cultivated in this area. Probably the paddy cultivation was given up as it was not found profitable, That does not change the character of the property. Even though this area is water-logged paddy could be raised is evident from the nature of entries in the village records. Exemption u/s 81 (1) (q) is available only if it is proved that the property was used for commercial purpose. Fishing and occasional soaking of coconut husks will not convert the property into a commercial site. The Taluk Land Board was clearly in error in holding that the 26.25 acres could be exempted u/s 81 (1) of the Kerala Land Reforms Act. The declarant was not entitled to get exemption on his count. The order of the Taluk Land Board is set aside. The matter is remanded to the Taluk Land Board. The Board will determine the excess land to be surrendered by the declarant and will dispose of the matter in the light of the observation made above.

The civil revision petition is disposed of as above, There will be no order as to costs.