
(1973) 02 MAD CK 0002

In the Madras High Court

Case No : Civil Revenue Petition No. 2430 of 1969, etc.

State of Madras and Others

APPELLANT

Vs

Arulraj Sunder and Others

RESPONDENT

Date of Decision : 26-02-1973

Acts Referred:

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 2, 3(14), 3(42), 4, 5

Citation : (1973) ILR (Mad) 343

Hon'ble Judges : K. Veeraswami, C.J.; Raghavan, J

Bench : Division Bench

Advocate : S. Govind Swaminathan, General and G. Ramaswami, Additional Government Pleader, T.S. Subramanian, P.S. Srisailam and K. Venugopal, for the Appellant; N.C. Raghavachari, for V. Sridevan, G. Masilamani and R. Balchander, for the Respondent

Final Decision : Allowed

Judgement

Veeraswami, C.J.—These cases raise interesting questions. But eventually, we are of the view that the orders of the Courts below will have

to be accepted as correct in one of them but reversed in the rest of them. In Civil Revision Petition No. 2430 of 1969, the question is whether the

property, which has been acquired by a minor under a settlement or gift, dated August 27, 1955 should be taken into account u/s 5(2) read with

the definition of family in the Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 in fixing the ceiling area for the family. The Act

commenced to operate from April 6, 1960. The notified date, for the purpose of these cases, was October 2, 1962. The Court below took the

view that the minor's property should not be taken into account for the purpose of Section 5(2). This was on the view that he was a domicile in the

French territory of Karaikkal and was governed by the Hindu rule of majority, according to which a person who had attained the age of 16 would

be regarded as a major. The event happened on January 23, 1961 the minor's date of birth being January 23, 1945. The view of the Court below

was that, since the Indian Majority Act, had no application to him and there is nothing in the Ceiling Act in respect of that matter, the minor for the

purpose of the Act should be regarded as a major and, that being so, he was not a member of the family of his father.

2. In the other civil revision petition, a Hindu family consists of a father, mother and an unmarried daughter. The unmarried daughter had received a

gift from her maternal grandmother of land of an extent of 48 acres and 1 cent equal to 12.002 standard acres. That was on December 3, 1962.

The Court below, with reference to the definition of the expression stridhana land in the Act, held that the property obtained by the unmarried

daughter from her maternal grandmother could not be regarded as stridhana property.

3. The Ceiling Act is one intended to provide for fixation of ceiling on agricultural land holdings and for certain other matters connected therewith.

The Act extends to the whole of the State. Section 2 defines a number of expressions which occur in the Act. A person is defined to include any

trust, company, family, firm, society or association of individuals, whether incorporated or not. The expression family in relation to a person means

the person, the wife or husband, as the case may be, of such person and his or her minor sons and unmarried daughters and minor grandsons and

unmarried granddaughters in the male line, whose father and mother are dead. There is an explanation which clarifies that, for the purpose of the

clause, in the case of persons governed by Hindu Law, minor sons and minor grandsons shall not include sons or grandsons between whom and

the other members of the family a partition by means of a registered instrument has taken place or in respect of whose family properties a

preliminary-decree for partition has been passed before the date of the commencement of the Act. Section 4 gives the Act an effect overriding

other laws, custom, usage or contract or decree or order of a Court in so far as they are inconsistent with the provisions of the Act. Section 5 fixes

the ceiling. Sub-section (1) of the section provides that, subject to the provisions mentioned therein, the ceiling area in the case of every family

consisting of not more than five members shall be 30 standard acres. For every additional member, an additional 5 standard acres shall be added.

Then follows Sub-section (2):

For the purposes of this section, all the lands held individually by the members of a family or jointly by some or all of the members of such family

shall be deemed to be held by the family.

This is a strange provision which, on the face of it, appears to be unreasonable, if not unjustified, inasmuch as properties traceable to different titles

are brought into the vortex of family properties for the purpose of fixing the ceiling. A suggestion was made that, having regard to the drastic nature

of the provisions, it might be possible to take the view that the expression lands held individually could be interpreted as referring not to ownership.

But this interpretation does not appear to be sound, though it would have tended, in a large measure, towards justice. This is because the

expression to hold land has also been defined and the definition says that the expression, with its grammatical variations and cognate expressions,

means to own land as owner or to possess or enjoy land as possessory mortgagee or as tenant or as intermediary or in one or more of those

capacities. These definitions should apply, unless the context otherwise requires. One is at pains to find out what context otherwise requires, so as

to give a different meaning to the words lands held individually in Sub-section (2) of Section 5. Though the question was not decided pointedly in

A.P. Krishnasami Naidu etc. Vs. State of Madras, Krishnaraju Reddiar v. Authorised Officer (1967) 1 M.L.J. 179 and Jagannath v. Authorised

Officer, L.R. Madurai AIR 1972 S.C. 426 this Court and the Supreme Court would appear to have proceeded on the basis that the definition of

the expression all the lands held individually should apply to Section 5(2).

4. So far as these cases before us are concerned we are happy to find that they can be decided on other approach. In Civil Revision Petition No.

2430 of 1969, there is no dispute that the father of the minor was a domicile of Karaikkal. It follows, therefore, that the minor's domicile followed

that of his father. The minor being a domicile of Karaikkal he would be governed by his personal law in respect of his age of majority. There is,

again, no dispute that the Hindu rule in this regard governs him, that is to say, he would be a major when he attains the age of 16. The question is

whether he should be treated as a major for the purpose of the Ceiling Act. That Act besides making a reference to a minor, does not attempt to

define who a minor is. We have the Indian Majority Act, according to which this minor would be attaining the age of majority only when he

complete the age of 18 years and not before. But this Act was extended to Karaikkal only with effect from December 18, 1968. There is,

therefore, nothing to stand in the way of this particular minor we use the expression for the purpose of convenience being regarded as a major for

the purpose of the definition of family in the Ceiling Act. That was the view taken by the Court below and we accept that to be correct. It follows,

therefore, that the petition by the State should fail and it is dismissed with costs.

5. In the other petitions, we are of the view that although the definition of Stridhana land u/s 3(42) of the Ceiling Act means any land held on the

date of the commencement of the Act by any female member of a family in her own name, for the reasons mentioned by V. Ramaswami J., in

Valliammal v. The Authorised Officer, Land Reforms, Coimbatore (1972) T.L.N.J. 609 which are persuasive, we are inclined to hold that

notwithstanding the limited definition of Stridhana land, it would apply to land held subsequent to the date of the commencement of the Act by any

member of the family in her own name. The ceiling of the family, of which the unmarried daughter is a member, will have to be worked out on that

basis, which means that she is entitled to the benefit and, therefore, a family u/s 3(14) of the Ceiling Act. The other petitions are allowed, with costs

in the first of them.