

(1956) 07 MAD CK 0051

In the Madras High Court

Case No : Letters Patent Appeal No's. 230, 276 and 305 of 1952

State of Madras

APPELLANT

Vs

K.S.M.K. Kasi Mohamad and others

RESPONDENT

Date of Decision : 02-07-1956

Acts Referred:

Citation : AIR 1958 Mad 107

Hon'ble Judges : Rajamannar, C.J;Panchapakesa Ayyar, J

Bench : Division Bench

Advocate : Pleader, for the Appellant; R. Kesava Ayyangar and K. Parasaran, for the Respondent

Final Decision : Dismissed

Judgement

Rajamannar, C.J.—In these three appeals, in which the State of Madras is the appellant, a common question arises. Under the Madras Estates Land (Reduction of Rent) Act (Madras Act XXX of 1947), the State issued notifications in respect of three villages in Ramnad district. There were also notifications issued under the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948, in respect of these three villages. Under S. 9 of the Madras Act XXVI of 1943 there was an enquiry regarding each of these three villages by the Assistant Settlement Officer. As regards the villages covered by L. P. A. Nos. 305 and 230 of 1952, the Settlement Officer held that the villager were inam estates within the meaning of Act XXVI of 1948, whereas as regards the village concerned in L. P. A. No. 276 of 1952 the Settlement Officer held it was not an inam estate. There were appeals to the Abolition Tribunal. The Tribunal held that none of the three concerned villages was an inam estate within the meaning of Madras Act XXVI of 1948 on the ground that the original grant was not of a whole village but was only of part of a village. The proprietors of the villages filed three applications before this Court, C. M. Ps. 8308 of 1950, 10040 of 1950 and 11376 of 1950, for the issue of writs of certiorari to quash the notifications made by the Government under the Rent Reduction Act regarding the three villages respectively. These

applications came on before Subba Rao, J., who first disposed of C. M. P. No. 8308 of 1950 and followed the decision therein in disposing of the remaining two applications. The learned Judge held that in view of the decision of the Tribunal, which had become final that the grant was not of a whole village, it was not open to the Government to sustain the notification under the Madras Estates Land (Reduction of Rent) Act. The learned Judge was evidently inclined to apply S. 64-A of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948, which declares that the decision of a Tribunal or special tribunal under the Act or of a Judge of the High Court hearing a case under S. 51(2) on any matter falling within its or his jurisdiction shall be binding on the parties thereto and persons claiming under them in any suit or proceeding in a civil Court in so far as such matter is in issue between the parties or person aforesaid in such suit or proceeding. The learned Judge held that the effect of this is to make the decision of the Settlement Officer or the Tribunal binding in any subsequent proceeding between the parties. In this view he allowed the three applications filed by the parties and quashed the notifications under the Rent Reduction Act. Hence these appeals by the Government.

2. We are not prepared to agree entirely with Subba Rao, J., in his construction of S. 64-A of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948. It is doubtful if a notification by the Government under the Rent Reduction Act, which is a unilateral act, can be held to be a suit or proceeding in a civil Court. In our opinion, S. 64-A of the Abolition Act cannot in terms apply to the present case.

3. The learned Special Government Pleader referred us to the decision of a Bench of this Court in *Gosukonda Venkatanarasayya and Others Vs. The State of Madras*, which discussed the scope of S. 9 of the Abolition Act. But this ruling has no direct bearing on the question except in so far as it makes it clear that it is not every decision of a Settlement Officer or the Tribunal that will fall within the scope of S. 64-A of the Madras Act XXVI of 1948. Nor is the other decision of the Full Bench in *Pollapalli Venkatarama Rao and Others Vs. Musunuru Venkayya and Others*, of much help. It was there decided that S. 189(3) of the Madras Estates Land Act can only have application to cases where the revenue Court has exclusive jurisdiction in respect of disputes or matters which arise in other proceedings.

4. But it appears to us to be most anomalous, to say the least of it, that the State, which has allowed the order of the Appellate Tribunal holding that the grant is not of the whole village, and, therefore, it would not be an estate, to become final, should be allowed to make a notification under the Rent Reduction Act on the footing that the grant is of a whole inam village. It was open to the State to have challenged the correctness of the Tribunal's decision. But the State was not evidently prepared to do so. Having acquiesced in that decision, we think it is not open to the Government to sustain a notification under the Rent Reduction Act which is obviously wrong if the ground of the decision of the

Tribunal is right.

5. For this reason we agree with Subba Rao, J., that the order of the Government should be quashed.

6. It follows that these appeals by the Government fail and they are dismissed with costs. Advocate's fee Rs. 50 in each.