

(1980) 04 MAD CK 0007
In the Madras High Court

State of Tamil Nadu and Another

APPELLANT

Vs

C.T. Senthilnathan Chettiar

RESPONDENT

Date of Decision : 15-04-1980

Acts Referred:

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 22

Citation : (1981) 1 MLJ 305

Hon'ble Judges : Ratnam, J

Bench : Division Bench

Judgement

Ratnam, J.—In this civil revision petition at the instance of the State of Tamil Nadu represented by the Collector of Tiruchirapalli and

another, the only question that arises for decision is whether the provisions of the Tamil Nadu Act LVIII of 1961 or the Tamil Nadu Act XVII of

1970 will be applicable to the respondent The facts lie within a short compass and there has been no dispute by either party about the same.

Originally, in computing the ceiling under the provisions of the Tamil Nadu Act LVIII of 1961 in relation to the lands held by the respondent and

his wife, it was held that the respondent and his wife were in possession of 51.325 standard acres, while they were entitled to hold and remain in

possession of only 40 standard acres. Aggrieved by this adjudication, the respondent preferred LT. CMA No. 148 of 1968 to the Land Tribunal

(Principal Subordinate Judge), Tiruchirapalli. The Land Tribunal set aside the order and remitted the matter for a consideration of the validity of

certain alienations and also to ascertain whether the alienations would or would not be hit by Section 22 of the Tamil Nadu Land Reforms (Fixation

of Ceiling on Land) Act.

Thereafter, by his order dated 27th June, 1973, the Authorised Officer held that the alienations to the extent of 22.281 standard acres are valid

and making provision for Stridhana holdings in an extent of 10 standard acres for the wife of the respondent the excess lands were declared in an

extent of 19.044 standard acres (51.325 minus 22,281 plus 10 standard acres). That order was again the subject-matter of another appeal in LT.

CMA. No. 62 of 1974 wherein the respondent contended that the originally permitted holding of 40 standard acres could not be disturbed and

reduced to 32.281 standard acres and that the provisions of Tamil Nadu Act XVII of 1970 would be applicable and not those of Tamil Nadu Act

LVIII of 1961. Again on 5th January, 1976, there was a remit order by which the Authorised Officer was directed to find out whether Act XVII

of 1970 will apply or not, especially in view of the decisions of this Court in Varadarajan Vs. Govindaswamy and Another, . The Authorised

Officer (Land Reforms) Tiruchirapalli, thereafter held that the decision referred to above did not apply to the facts of the present case as

proceedings in the instant case had already been taken under the principal Act LVIII of 1961 and consequently, Section 3(1) of Act XVII of 1970

which provided for the continuance of proceedings already taken would apply and not the provisions of Act XVII of 1970 as claimed by the

respondent. In the result, the Authorised Officer directed the respondent to specify 19,044 standard acres for purposes of surrender as being in

excess of the ceiling area. Aggrieved by this order, the respondent herein preferred an appeal in LT. CMA. No. 3 of 1977 before the Land

Tribunal (Principal Subordinate Judge) Tiruchirapalli. The Land Tribunal took the view that the notice issued by the Authorised Officer marked as

Exhibit A-1 indicated that action had been taken against the respondent only under Act XVII of 1970 and therefore, having initiated proceedings

under Act XVII of 1970 on 5th October, 1974, it was not open to the Authorised Officer to go back on it and to initiate proceedings under Act

LVIII of 1961. Consequently the Land Tribunal held that in view of the applicability of the provisions of Act XVII of 1970, no question of surplus

would arise and therefore, directed the dropping of further proceedings.

2. While the learned counsel for the petitioner contends that the proceedings in the present case must be governed by the provisions of Act LVIII

of 1961, the learned counsel for the respondent contends that having regard to the issue of a notice by the second petitioner to the respondent on

15th October, 1974 under Act XVII of 1970, it is no longer open to the petitioner to go back on it and apply the provisions of Act LVIII of 1961.

According to the provisions of Act LVIII of 1961 the ceiling area in the case of every person and in the case of every family consisting of not more

than five members is 10 standard acres. Even after the implementation of the provisions of that Act, it was found that there was considerable

disparity in ownership of agricultural lands leading to a concentration of such lands in the hands of certain persons and it was therefore thought So

reduce such disparity by resorting to further agrarian reforms and with a view to achieve that the ceiling was reduced from 30 standard acres to 15

standard acres and this was effected by Tamil Nadu Act XVII of 1970 which came into force on 15th February, 1970 and the notified date under

that Act was 2nd October, 1970. It is necessary in order to appreciate the contentions raised to refer to Section 3 of Tamil Nadu Act XVII of

1970 which is really in the nature of a saving provision. That section reads thus:

Saving :-- (1) Subject to the provisions of Sub-section (2) any action taken (including any order made, notification issued, decision or direction

given, proceeding taken, liability or penalty incurred and punishment awarded) under the provisions of the Principal Act before the date of

publication of this Act in the Fort St. George Gazette, may be continued or enforced after the said date in accordance with the provisions of the

principal Act as if this Act had not been passed.

(2) Nothing in Sub-section (2) shall be deemed to entitle any person whether or not such person is a party to any proceeding mentioned in Sub-

section (1), to hold after the 15th day of February, 1970, land in excess of the ceiling area under the Principal Act as modified by Section 2 and

the provisions of the Principal Act as modified by Section 2 shall, after the said date, apply to such person.

The plain meaning of Section 3 of the Tamil Nadu Act XVII of 1970 is that all sections and proceedings taken before the date of publication of

Act XVIII of 1970 in the Gazette (which was on 23rd June, 1970) should be continued and proceeded with after 23rd June, 1970 in accordance

with the provisions of Tamil Nadu Act LVIII of 1961, as if the provisions of Act

XVII of 1970 had not been passed. The continuance of the proceedings thus permitted u/s 3(1), however was made subject to the further restriction indicated under Sub-section (2) to the effect that such continuance should not enable a person to escape the consequences of the reduction of the ceiling affected by Act XVII of 1970 which permitted the holding of only 15 standard acres after 15th February, 1970. Therefore, while under Act LVIII of 1961, the ceiling limit was 30 standard acres, it was reduced under the Reduction of Ceiling on Land Act, 1970, Act XVII of 1970, to 15 standard acres and therefore, it is that Section 3(2) provided that though the proceedings taken under the provisions of the Act LVIII of 1961 before the date of publication of the Act in the Gazette viz. 23rd June, 1970 may be continued or enforced in accordance with the provisions of Act LVIII of 1961, yet, such continuance or enforcement would not permit the holding of an area in excess of 15 standard acres after 15th February, 1970. That is why Sub-section (2) of Section 3 made it clear that on and after 15th February, 1970, the mere continuance of proceedings initiated prior to 23rd June, 1960 under the provisions of the Tamil Nadu Act LVIII of 1961 would not enable a person to hold after 1970 lands in excess of 15 standard acres. This Court had occasion in T.M Abdul Gani Vs. State of Tamil Nadu and Others, . to examine the scope of Section 3(1) and (2) of Tamil Nadu Act XVII of 1970. It is pointed out by Ismail, J. as he then was that Sub-section (1) of Section 3 of the Tamil Nadu Act XVII of 1970, which I have extracted, clearly shows that any action taken prior to the coming into force of the Tamil Nadu Act XVII of 1970 will continue and will take effect under the provisions of the Principal Act, as if that Act had not been amended by the Tamil Nadu Act XVII of 1970, Consequently, in this case, since the Authorised Officer has passed orders u/s 10(5) of the Principal Act prior to the coming into force of the Tamil Nadu Act XVII of 1970, and at the time when that Act came into force, the appeal preferred by the petitioner to the Land Tribunal was pending, the Land Tribunal could determine the surplus only on the basis of the principal Act LVIII of 1961 without reference at the Tamil Nadu Act, XVII of 1970. This decision had also been confirmed on appeal in W. A. No. 181 of 1974 by a Bench consisting of Veeraswamy, CJ., and Justice Natarajan on

10th July 1975. The question which has now to be decided is whether in the present case proceedings have been initiated under Act LVIII of

1961 already which could be continued or whether they were initiated only after the provisions of Tamil Nadu Act XVII of 1970 had come into

force. It is obvious from a reference to the facts that even before Tamil Nadu Act XVII of 1970 had come into force and even at the time when

that Act came into force, proceedings initiated already under Act LVIII of 1961 were pending and consequently, the Land Tribunal in the instant

case could proceed to determine the surplus only on the basis of the principal Act LVIII of 1961 without reference to Tamil Nadu Act XVII of

1970. The reliance placed by the Land Tribunal on Exhibit A-1 does not indicate that the proceedings were initiated for the first time only under

Act XVII of 1970. A reading of Section 3(1) and (2) of the provisions of Tamil Nadu Act XVII of 1970 makes it absolutely clear that the object

of that Act is to reduce the ceiling area to 15 standard acres but the reduced ceiling is to be given effect to from 15th February, 1970 and

therefore, the provision is made that even when the ceiling of any person is decided with reference to the provisions of the Principal Act LVIII of

1961 u/s 3(1) of the Act XVII of 1970, still because of the effect of Section 3(2) of the latter Act, such person can hold land after 15th February,

1970 only subject to the reduced ceiling limit prescribed by Act XVII of 1970. A careful perusal of Exhibit A-1 would indicate that it is only for

the purpose of fixing the reduced ceiling that the notice had been issued and not as if no prior proceedings whatever under Act LVIII of 1961 had

been taken at all. The reliance, therefore, upon this notice by the Land Tribunal to hold that proceedings had been initiated as against the

respondent only pursuant to the provisions of Act XVII of 1970 cannot therefore be supported. The Land Tribunal, therefore, ought to have

applied Section 3(1) of the Tamil Nadu Act XVII of 1970 to the instant case. The order of the Land Tribunal is, therefore, set aside and that of

the Authorised Officer restored. The civil revision petition is allowed. There will, however, be no order as to costs.