
(1995) 10 MAD CK 0030

In the Madras High Court

Case No : Appeal Against Appellate Order No. 74 of 1985

V. Ramaswamy Pillai

APPELLANT

Vs

The State of Pondicherry

RESPONDENT

Date of Decision : 13-10-1995

Acts Referred:

Pondicherry Land Reforms (Fixation of Ceiling on Land) Act, 1973 — Section 9(2)
Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 10(2)

Citation : (1995) 2 CTC 579

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Advocate : K. Mani, for the Appellant; P. Krishnamoorthy, Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

S.S. Subramani, J.—The land-owner before the Authorised Officer (Land Reforms), Karaikal in M.R.No. 1 of 1970, is the appellant

before this Court.

2. The appellant was directed to file returns of the property held by him under the relevant provisions of the Pondicherry Land Reforms (Fixation

of Ceiling on Land) Act, 1973. Returns were filed wherein he said that himself, his minor sons who were given in adoption, his daughter and wife

are together holding nearly 4-89-61 standard hectares, and hence they are not liable to surrender any excess land.

3. Negating his contention, the Authorised Officer came to the conclusion that the appellant is having a surplus land of 10-88- 73 std. hectares.

Against the said Order of the Authorised Officer, the landowner preferred an Appeal before the Land Tribunal. The Land Tribunal confirmed the

decision of the authorised Officer. Second Appeal was taken before this Court, wherein additional evidence was also sought to be adduced.

Taking into consideration the additional evidence, this Court set aside the decisions of both the Authorities below, and on payment of costs,

directed reconsideration of the entire matter. The matter was remanded to the Land Tribunal. After remand, it was found that two of the owners

who were minors, were given in adoption and hence the property belonging to them and which stood in their names had to be excluded. But in

respect of one of the sons, Subramaniam, who was also a minor, it was held that the property which stood in his name cannot be excluded. The

property which stood in the name of Subramaniam was also taken into consideration since he came within the definition of "family" under the Act

The Land Tribunal held that on the appointed date, i.e., 24-1-1971, Subramaniam, was a minor, and he attained majority only on 11-9-1973. It

was admitted before the Tribunal that the minor was born on 11-9-1955. Taking into consideration the age of majority as 18, the Land Tribunal

held that the property which stands in the name of the minor has also to be included in fixing the ceiling area. It accordingly modified the Order and

declared an area of 4.60.44. std. Hectares as excess lands held by the appellant. It is against the modified Order, this Appeal is preferred by the

landlord.

4. The following substantial questions of law have been raised for consideration in this Appeal:-

1) Whether the lower Court is right in including 2.66.89 hectares of One Subramaniam's holdings in the appellant's holding?

2) Whether the lower Court is right in coming to the conclusion that 4.60.40 hectares are excess lands under Land Reforms Act?

and

3) Whether the lower Court is right in coming to the conclusion that the age of majority is 18 under French law, not 16?

5. Learned counsel for the appellant submitted that the parties reside and the properties are situate within the French Territory of Pondicherry, and

during the relevant time, as per the French Code, the age of majority was fixed as 16 years. If that be so, Subramaniam has to be treated as a

major at the age of 16, and the property held by him has to be excluded.

6. The second contention that is raised is that when fixing the ceiling area, persons who became majors on the appointed date have to be taken into consideration, and if that be so, Subramaniam will be a major and even if Indian Law regarding attaining of majority is made applicable, the property held by him has to be excluded.

7. According to me, the second question alone need be considered in this Appeal, for, that will be a sufficient answer for the other questions.

8. Admittedly, Subramaniam was born on 11-9-1955 and he completed the age of 18 on 11-9-1973. The appointed date is 24-1-1971. The Act, came into force on 1.3.1975 Admittedly, on the date when the Act came into force, Subramaniam was a major. A similar question came for

consideration under the Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 and the decision is reported in Rajagopal Pillai Vs. State

of Tamil Nadu, by the Collector of South Arcot and Another, by the Collector of South Arcot and Anr. There, this Court was considering the

definition of "family". It was held that the state of affairs as on the notified date have to be taken into consideration. Section 10 (2) (a) of the

Madras Land Reforms (Fixation of Ceiling on Land) Act and Section 9 (2) (a) and (b) of the Pondicherry Land Reforms (Fixation of Ceiling on

Land) Act are similarly worded. While considering the Madras Act, this Court held thus :-

....The wording of the section is clear that in the event of a death in the family between the commencement of the Act and the notified date, that

person will have to be excluded in fixing the family holding. The question is whether the subtraction to the family by a minor becoming a major or

by an unmarried daughter getting married, is not specifically provided for in the section. But the provision mat the authorised officer should take

into account the members of the family who are alive on the notified date would logically mean that the authorised officer could fix the members of

the family as on the notified date by taking into account the subtraction by the minor becoming major or by the unmarried daughter getting married,

who are by virtue of the definition ""family"" excluded from the definition ""family"".

The learned Judge relied on an earlier decision of this Court in C.R.P. No. 854 of 1967 wherein Ramanujam, J. had held thus:-

When a minor on the date of the commencement of the Act becomes a major before the notified date, this share should be excluded in fixing the family ceiling area. What is applicable to a minor is applicable to an unmarried daughter, who get married between the commencement of the Act and the notified date.

9. Section 9 (2) (a) and (b) of the Pondicherry Act reads thus:-

9(2)(a) For the purpose of calculating after the appointed day the ceiling area of a family holding on the appointed day in excess of 6 standard

hectares, the authorised officer shall take into account only those members of that family who are alive on the notified date.

(b) For the purpose of calculating after the appointed day, the ceiling area of any other family, the authorised officer shall take into account only

those members of that family who are alive on the date on the preparation of the draft statement under Sub-section (1).

In view of the decision of this Court (cited supra), I hold that the property that stood in the name of Subramaniam, who was then a minor and who

became a major before the notified date, should be excluded before fixing the ceiling area. If that be so, the area of 2.66.89 std. hectares also has

to be excluded while considering the ceiling area possessed by the family of the landlord. Question No. 1 is answered in favour of the appellant.

The Orders of the Authorities below are modified to the extent indicated above. The Appeal is, therefore, allowed. However, there will be no

order as to costs.