
(1979) 01 MAD CK 0070

In the Madras High Court

Case No : Writ Petition No. 3938 of 1977

V.S. Alwar Iyengar

APPELLANT

Vs

Tahsildar and Record Officer, Srivilliputtur and Others

RESPONDENT

Date of Decision : 04-01-1979

Acts Referred:

Tamil Nadu Agricultural Lands Record of Tenancy Rights Act, 1969 — Section 16A

Citation : AIR 1979 Mad 279 : (1979) ILR (Mad) 207 : (1979) 92 LW 343

Hon'ble Judges : Natarajan, J

Bench : Single Bench

Judgement

1. The often raised question whether the designated Revenue authorities are entitled of entertain applications under the Tamil Nadu Agricultural Lands (Record of Tenancy Rights) Act, 1969 (hereinafter referred to as the Act) and pass orders thereon after the civil courts had expressed their opinion in proceedings instituted before them about the status of an alleged cultivating tenant is the subject-matter of debate in this case. The brief facts which are required to be noticed for appreciating the contentions of the petitioner are as set out below:--

2. The petitioner is the owner of wet lands bearing S. Nos. 682 and 683 situated in Maharajapuram village, Srivilliputtur taluk, Ramnad Dist. According to him the 4th respondent herein was permitted to carry out certain agricultural operations on those lands on a contractual basis under a written agreement dated 7-11-1973. The agreement came to an end six months later and the accounts were settled and the fourth respondent's right to remain on the land came to a termination. Nonetheless, the 4th respondent sent a notice in February 1974, stating that he would cut and remove the standing crops on the land. To prevent this the petitioner filed a suit O.S. No. 309 of 1974, on the file of the District Munsif court, Srivilliputtur, and prayed for a decree for permanent injunction to restrain the 4th respondent from interfering with the petitioner's possession and enjoyment of the suit property. While considering the petitioner's prayer for grant of permanent injunction the trial court determined the status of the 4th

respondent as a contractual hand and this finding coupled with the finding on the petitioner's possession of the land resulted in the trial court passing a decree in favour of the petitioner. The judgment and decree were unsuccessfully challenged by the 4th respondent before the principal Subordinate Judge of Ramanathapuram at Madurai in A.S. 121 of 1975. After the disposal of the appeal the petitioner received notice of proceedings instituted by the 4th respondent before the first respondent for registration of his name as a tenant of the lands mentioned above in the record of tenancy rights. The petitioner opposed the application of the 4th respondent and relied upon the judgments of the civil courts in his favour. The first respondent took the view that the determination of the status of the 4th respondent as a cultivating tenant was entirely within his domain and, therefore refused to be influenced by the judgments of the civil courts and considered and allowed the 4th respondent's application. This order was taken in appeal to the 2nd respondent by the petitioner and the 2nd respondent allowed the appeal and reversed the order of the first respondent. That led to the 4th respondent preferring a revision to the 3rd respondent. The revisional authority deemed it fit to allow the revision and remand the matter to the first respondent for fresh disposal and gave a direction to the first respondent to send for the agreement Ex. A-2 entered into between the parties and examine that document also before deciding the question whether the 4th respondent was a cultivating tenant of the petitioner or not. Being aggrieved by the order of remand the petitioner has preferred this petition and the prayer therein is for a writ of certiorari or other appropriate writ or order being issued to quash the order of the 3rd respondent.

3. Before referring to the arguments of Mr. Alagar, learned counsel for the petitioner, it may be mentioned that a second appeal preferred by the 4th respondent against the judgment of the learned Subordinate Judge, Ramanathapuram, to this court in S.A. No. 112 of 1977, also ended in failure and this court dismissed the second appeal on 4-7-1978. The resultant position is that the uniform finding of the court below as well as of this court is that the petitioner is entitled to remain in undisturbed possession of the suit property and the 4th respondent who had only the status of a contractual labour was not entitled to interfere with the petitioner's possession of the lands.

4. Mr. Alagar contends that having regard to the findings of the civil courts in the various proceedings referred to above, it is no longer open to the 4th respondent to move respondents 1 to 3 for recognition of his status as a cultivating tenant of the lands belonging to the petitioner. According to the learned counsel the bar imposed by Sec. 16A of the Act will not have application to the petitioner's case because it is now well settled that the civil court has jurisdiction to entertain a suit as the one filed by the petitioner for obtaining the relief of injunction. For the purpose of granting injunction to the petitioner the civil courts had also to incidentally determine the status of the 4th respondent and accordingly they have held that his status is only that of a contractual labour. Such being the case the 4th respondent is not entitled to take up the matter once again under the

guise of an application under the Act, nor are the officers empowered under the Act entitled to render a finding contrary to the earlier findings given by the civil courts regarding the status of the 4th respondent, albeit in collateral proceedings. In support of his arguments, Mr. Alagar relies on the decision in *Palaniswamy v. Ramaswami Gounder* (1977) 1 MLJ 5 where it has been held that though Section 16A of the Tamil Nadu Act 10 of 1969 excludes the jurisdiction of the civil courts to determine a question which the authorities constituted under the Act have to decide, yet a suit for mere injunction can well be maintained in the civil court and it will be competent for the civil court to incidentally determine for the purpose of granting the main relief claimed in the suit, the capacity in which a person claims to be in possession. The further submission of Mr. Alagar is that the bar under Sec. 16A of the Act will have application only if a tenant had first approached the hierarchy of officials named in the Act to recognise him as a cultivating tenant and obtain an order in his favour before his status is decided, though incidentally, by the civil court in proceedings instituted by a landlord for obtaining reliefs like injunction etc. As a logical extension of his arguments, the petitioner's counsel states that inasmuch as the petitioner had first moved the civil court and obtained a decree for injunction in his favour and in the process of granting the relief of injunction the civil courts have also determined the status of the fourth respondent, it is not now open for any of the respondents to say that the jurisdiction of the civil courts is barred under Sec. 16A of the Act, and it is open to respondents 1 to 3 to independently go into the question whether the fourth respondent is a cultivating tenant under the petitioner or not.

5. On the other hand, Mr. Umapathy, learned counsel for the fourth respondent, places strong reliance on S. 16A and contends that though the civil court may have jurisdiction to grant the relief of injunction in a suit filed by a landlord, yet the court cannot impinge upon the jurisdiction of the authorities contemplated under the Act in dealing with the claims of tenants for recognition as cultivating tenants and as such the bar placed on civil courts by Section 16A from dealing with matters which are exclusively determinable by the authorities named in the Act will not cease to have force merely because a landlord forestalls a cultivating tenant and files a suit in a civil court and gets a decree for injunction in his favour.

6. For the proper appreciation of the points raised in the debate it is necessary to consider the scope and effect of Section 16A and also some of the other provisions of the Act. Section 16A reads as follows-

"16A. Bar of jurisdiction of civil courts:--No civil court shall have jurisdiction in respect of any matter which the record officer, District Collector or other officer or authority empowered by or under this Act has to determine and no injunction shall be granted by any court in respect of any action taken or to be taken by such officer or authority in pursuance of any power conferred by or under this Act." Having regard to the terms of the section we must find out what are the matters in which the District Collector or other officer or authority empowered by

or under the Act has jurisdiction to determine. The matters in which they have been configured jurisdiction are those dealt with by Sections 3, 4 and 5. Sec. 3 deals with the preparation of record of tenancy rights and the procedure to be followed in the preparation of such records. Section 4 deals with inclusion of lands in the approved record of tenancy rights. Clause (a) of sub-section (1) of Section 4 needs extraction because the 4th respondent's application to the first respondent would squarely fall under this provision. That provision is as follows-

"Where subsequent to the publication of the approved record of tenancy rights any land has been let for cultivation, the landowner, intermediary or the tenant having interest in such land shall make an application to the Record Officer for inclusion of particulars relating to such land in the approved record of tenancy rights".

7. Then comes Section 5 which provides for modification of entries in the approved record of tenancy rights. With reference to the matters covered by Sections 3, 4, and 5, any one aggrieved by orders passed under those sections has been given a right of appeal u/s 6 and a further right of revision u/s 7 of the Act. Section 8 is a procedural section and it lays down that if an original order is varied by the appellate or revisional authority, suitable changes shall be made in the approved record of tenancy rights in accordance with the order passed in appeal or revision. It is not necessary to refer to the other sections of the Act because they are not relevant for consideration in this petition.

8. Construing the scope of Sec. 16A, it was held in *Muniyandi Vs. Rajangam Iyer*, , by a Bench of this court that Section 16A of Act 10 of 1969 admits of no doubt that a civil court has no jurisdiction to decide any matter which the Record officer, District Collector or other officer or authority empowered by or under the Act should determine. Another Bench of this court held in *K. M. Sankaralinga Thevar Vs. Thirumalammal and Others*, , that the bar of jurisdiction on civil courts imposed by Section 16A of the Act will have no application if the action before the civil court had been instituted before Sec. 16-A was enacted. It is, therefore, with reference to the provisions of the Act and in the light of these decisions, the case of the petitioner has to be decided.

9. It appears to me that there will not be any room for conflict if we construe the bar of jurisdiction imposed on civil courts by Section 16A of the Act in its proper perspective. In matters like preparation of record of tenancy rights, inclusion of the relevant items of land as well as the names of interested persons in the approved record of tenancy rights and the modification of entries in the approved record of tenancy rights, the machinery provided under the Act will have exclusive jurisdiction and to that extent, the jurisdiction of the civil courts has been taken away by means of the express interdiction contained in Section 16A, as held in *Muniyandi Vs. Rajangam Iyer*, . On the other hand, for obtaining reliefs of injunction etc, resort can be had only to the civil court and the powers of the civil court to entertain a suit for injunction and grant orders of injunction etc, remain untouched by Act 10 of 1969. If in the process of finding out whether a

party is entitled to an order of injunction in his favour or not, it becomes incidentally relevant to examine the nature of his possession, the civil court can evaluate the status of that person. But that finding can only be confined to granting or not granting the relief of injunction sought for and it cannot override Section 16A of the Act or take away the jurisdiction of the officers named in the Act to deal with applications directly arising under the provisions of Act 10 of 1969. If this state of things is borne in mind, there is no scope for the petitioners to contend that because the subordinate courts and this court have held that the petitioner was in possession of the land and was entitled to a decree for injunction in his favour and the fourth respondent was not entitled to disturb the possession of the petitioner as he was only a contractual labour, the fourth respondent has no right to initiate proceedings under Act 10 of 1969 for recognition of his status as cultivating tenant and likewise, the first respondent had no jurisdiction to entertain the application and pass orders in accordance with the materials placed before him for consideration. The determination of the status of the 4th respondent by the civil court was with reference to the petitioner's claim that he was in actual physical possession of the land and as such, he is entitled to retain his possession without let or hindrance, whereas the decision rendered by the first respondent on the application filed by the 4th respondent was with reference to his status in terms of Act 10 of 1969. I am therefore unable to accept the contention of Mr. Alagar that the 1st respondent was not at all entitled to maintain the application filed by the 4th respondent and likewise, the 3rd respondent was also not entitled to take on file the revision preferred by the 4th respondent and allow the same and remit the matter to the first respondent for fresh disposal.

10. It is also hesitantly contended by Mr. Alagar that, in any event, the 3rd respondent should have remanded the case to the second respondent only, not to the first respondent for fresh disposal. I am unable to sustain this contention because the 3rd respondent has, undoubtedly, got powers of remand and in exercise of that power, it is open to him to remit the matter wither to the first respondent or to the second respondent to consider the matter anew. Inasmuch as the 3rd respondent has taken the view that the initial authority, viz., the first respondent, should decide the status of the parties after looking into the agreement, Ex. A-2, relied upon by the petitioner, he has deemed it fit to remand the case to the first respondent instead of the second respondent. As such, there is no room whatever for the petitioner to have grievance on this aspect of the matter.

11. For the aforesaid reasons, the petition fails and accordingly, will stand dismissed. There will, however, be no order as to costs.

12. Petition dismissed.