
(1989) 03 MAD CK 0038
In the Madras High Court
Case No : C.R.P. No. 3688 of 1982

Y. Arul Nadar

APPELLANT

Vs

The Authorised Officer, Land Reforms, Thanjavur

RESPONDENT

Date of Decision : 20-03-1989

Acts Referred:

Constitution of India, 1950 — Article 245, 246

General Clauses Act, 1897 — Section 2, 5

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 — Section 21, 3(14)

Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970 — Section 3

Citation : AIR 1990 Mad 33 : (1989) 2 LW 179

Hon'ble Judges : Thanikkachalam, J; Nainar Sundaram Bellie, J

Bench : Division Bench

Advocate : B. Kumar, for the Appellant; Jermiah, Addl. Govt. Pleader, for the Respondent

Judgement

Nainar Sundaram, J.—This is reference made to Full Bench by K. M. Natarajan, J. As we could see from the order of reference by the

learned single Judge, the main question that requires resolution by us is as to whether the provision of Section 21A inserted by the Tamil Nadu

Land Reforms (Reduction of Ceiling on Land) Act 17 of 1970, hereinafter referred to as the Reduction Act, into the Tamil Nadu Land Reforms

(Fixation of Ceiling on Land) Act 58 of 1961, hereinafter referred to as the Parent Act, is applicable to the proceedings initiated already under the

Parent Act and pending at the time of coming into force of the Reduction Act. The other question relates to the applicability, of amendments to

effects (sic) similar to Section 21A introduced in S. 3(14) of the Parent Act by the Reduction Act, to pending proceedings. We shall not trouble

ourselves with the details of the facts of the case in view of the scope of the

questions referred for our answer. The learned single Judge, who made the order of reference to the Full Bench was obliged to do so because he found a conflict of views on the questions between pronouncements of this Court and specifically between two pronouncements of Division Benches of this Court, other pronouncements being those of learned single Judges. The petitioner in the Revision wants to avail of S. 21A inserted into the Parent Act by the Reduction Act so as to save certain transfers in favour of his minor sons, which according to him, will come within the purview of that provision. The petitioner also wants to say that by virtue of the amendments to S. 3(14) concerning such transfers, his minor sons would go out of the ambit of his family. By the amendments introduced by the Reduction Act into S. 3(14) of the Parent Act, by virtue of transfers specified therein, minor sons and other specified persons, in whose favour the transfers are effected would fall outside the ambit of family. Section 21A so introduced also saves such specified transfers.

2. The general rule is when an amendment is introduced in the statute governing the case already pending, the rights and obligations of parties should be decided only according to the law, which existed when the action was begun, unless a clear contrary intention is evident in the Amending Act. There could not be imputation of retrospective operation to an Amending Act and that could be done only by the Amending Act either expressly or by necessary implication. But here we find that the Amending Act has indicated that the amendments introduced shall have only prospective operation and pending proceedings should continue as if the Amending Act had not been passed. In this context, we are bound to take note of S. 3 of the Reduction Act, which as a whole, reads as follows :

3. Saving : (1) Subject to the provisions of sub-sec. (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 the 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-sec. (1) 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 13th day of February. 1970, land in excess of the ceiling area under the Principal Act as modified by S. 2 and the provisions

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

3. In T.M Abdul Gani Vs. State of Tamil Nadu and Others, Ismail, J., as he then was opined that sub-sec. (I) of S.3 of the Reduction Act clearly

shows that any action taken prior to the coming into force of the Reduction Act will have to continue and will take effect under the provisions of the

Patent Act as if the Parent Act had not been amended by the Reduction Act. The learned Judge also adverted to the implications of sub-sec. (2) of

S. 3 of the Reduction Act as follows :

The principal object of Act XVII of 1970 is to reduce the ceiling limit of 30 standard acres provided for in the Principal Act of 1961 to 15

standard acres. The object of S. 3(2) of the Act XVII of 1970 is to give effect to this reduced ceiling limit with effect from 15th February. 1970,

and therefore, provides that even when the ceiling limit of any person is determined with reference to the provisions of the Principal Act of 1961

under S. 3(1) of the Act X VII of 1970, still because of the overriding effect flowing from S. 3(2) of the latter Act. such person can hold land after

15th February. 1970, only subject to the reduced ceiling limit prescribed in Act XVII of 1970. The Land Tribunal has rightly applied sub-sec. (I)

of S. 3 of the Tamil Nadu Act XVII of 1970, and. therefore, no interference is called for with the order of the Land Tribunal".

This pronouncement of the learned single Judge was taken on appeal in W.A. No. 181 of 1974 and the Division Bench, as pointed out by the

learned single Judge in his order of reference, upheld the view of the learned single Judge and dismissed the Writ Appeal. Ratnam. J.. In State of

Tamil Nadu v. Senthilnathan Chettiar. (1981) 1 MLJ 305 referred to these two pronouncements while finding out the implications of S.3 of the

Reduction Act.

4. In contrast, we have the pronouncement of another Division Bench of this Court in Fakir Mohamed v. The State of Tamil Nadu C.R.P. No.

1197 of 1971, Order dated 26-3-1973 concisely reported in 1973 T.L.N.J. 440 therein the view expressed seems to run contrary to the view

taken in the pronouncements referred to by us above.

5. We propose to go by the plain language of S.3 of the Reduction Act S. 3 of the Reduction Act speaks about "saving" Subsection (I) of S. 3 of

the Reduction Act alone is relevant and by plain and unambiguous language, it contemplates that the proceedings taken under the provisions of the

Parent Act before the publication of the Reduction Act will have to be continued in accordance with the provisions of the Parent Act as if the

Reduction Act had not been passed. By the very force of its language, sub-sec. (1) of S. 3 of the Reduction Act settles the issue beyond

controversy. There is no escape from it when in effect it says that pending proceedings have got to be continued as if the provisions introduced by

the Reduction Act are not there. This is the implication, which, in our view has been rightly taken note of by the learned single Judge in T.M Abdul

Gani Vs. State of Tamil Nadu and Others, and which view of the learned single judge has been confirmed by the Division Bench in W. A. No. 181

of 1974. We must straightway point out that in Fakir Mohamed v. The State of Tamil Nadu (C. R. P. No. 1197 of 1971. Order dated 26-3-

1973. concisely reported in 1973 T. L. N. J. 440 there is no advertance to the implications of sub-sec. (1) of S.3 of the Reduction Act though

there is a reference to sub-sec. (2) of the S.3 of the Reduction Act. Sub-section (2) of S. 3 of the Reduction Act merely speaks about the reduced

ceiling limit with effect from 15-2-1970, It does not concern with the savings that could be asked for under S. 21-A and the amendments to

Section 3(14) introduced by the Reduction Act into the Parent Act. Learned counsel for the petitioner wanted to hang on to Section 21-A inserted

by the Reduction Act into the Parent Act. This approach is not at all sound and is the result of a fallacious thinking. When we take note of the

language of sub-section (1) of S. 3 of the Reduction Act which contemplates that the proceedings already initiated under the Parent Act will have

to be continued as if the provision introduced by the Reduction Act are not there, there need not be resort to S. 21-A inserted by the Reduction

Act into the Parent Act to take any guidance on the question. Our attention was also drawn to other pronouncements which have not touched the

present question and we do not propose to refer to them. This being the implication of the provisions of S. 3 of the Reduction Act, we are obliged

to uphold the view expressed by the learned single Judge in T.M Abdul Gani Vs. State of Tamil Nadu and Others, and upheld by the Division

Bench in W. A. No 181 of 1974 and any view found contrary to the same in Fakir Mohamed v. The State of Tamil Nadu. C. R. P. No. 117 of

1971, Order dated 26-3-1973, concisely reported in 1973 T. L. N. J. 440 or any other pronouncement of this Court stands overruled. The

learned single Judge in his order of reference wants us to answer also as to the applicability of similar amendments to S.3(14) of the Parent Act,

introduced by the Reduction Act, to pending proceedings. In view of our above discussion, we answer that pending proceedings will have to be

continued without reference to the said amendments. We answer this reference as above. Now we have answered the reference, the Revision will

have to go before the learned single Judge, who has to deal with the same on merits. We make no order as to costs.

Final Order of High Court (31-3-1989, S. Mohan, Officiating Chief Justice) :--

In view of the ruling of the Full Bench, the Civil Revision Petition is dismissed. No costs.

6. Revision petition dismissed.