State of Andhra Pradesh

Vs

Kannapalli Chinna Venkata Chalamayya Sastri

Civil Appeal No. 242 of 1960

(CJI B. P. Sinha, T. L. Venkatarama Ayyar, P. B. Gajendragadkar, K. N. Wanchoo, N. Rajgopala Ayyangar JJ)

30.03.1962

JUDGMENT

WANCHOO, J. -

This appeal on a certificate granted by the Andhra Pradesh High Court raises a question of the constitutionally of the Madras Estates Land (Reduction of Rent) Act, No. XXX of 1947, as amended, (hereinafter referred to as the Act) and a notification issued thereunder. The brief facts necessary for present purposes are these. The respondent was the sole inamdar of village Chinnavenkatapuram in the Parlakimidi Zamindari in the district of Srikakulam. The legislature the composite State of Madras passed the Act, which came into force from January 7, 1948, to provide for the reduction of rents payable by ryots in estates governed by the Madras Estates Land Act, No. 1 of 1908, approximately to the level of the assessments levied on lands in ryotwari areas in the neighbourhood and for the collection of such rents exclusively by the State Government. The Act applied to all estates as defined in section 3(2) of the Madras Estates Land Act. Section 2 provided for the appointment of a special officer for any estate or estates for the purpose of recommending fair and equitable rates of rent for the ryoti lands in such estate or estates and laid down the procedure to be followed by the special officer for such purpose, and gave power the special officer to determine after necessary enquiries the extent if any to which the rates of rent payable for each class of ryoti land should in this opinion be reduced and to fix the rates of rent payable for each class of ryots after such reduction. Under section 3, the special officer had to submit a report after completion of his inquiry to the State Government on the two points mentioned above and after considering the recommendations of the special officer and the remarks of the Board of Revenue thereon, the State Government was empowered by order published in the Gazette to fix the rates of rent in respect of each class of ryoti land in each village in the estate, and the order so passed by the State Government was to take effect from the commencement of the Fasli year 1357. Section 3(4) then provided for the recovery of rents so fixed by the State Government and the amount so recovered in respect of each year, after deducting therefrom the cost of such recovery as may be determined according to the Rules to be framed and also after deducting the peshkash, cesses and other moneys due from the landholder to the State Government, was to be paid to the landholder. Section 3(7) laid down that the landholder shall not be entitled to collect rents thereafter. Sections 5 and 6 made special provisions with regard to religious, educational and charitable institutions. Section 7 provided for the framing of rules and Section 4, 8 and 9 made incidental provisions which are however not material for our purposes.

In pursuance of the provisions of the Act, a notifications was issued by the State Government with respect to the estate of the respondent fixing the rates of rent for various classes of ryoti lands in the

estate. In the case of wet and dry lands the rate was reduced to half of the then existing rates and in the case of dry land (when agraharam well water was used) the rate was reduced to one-sixth of the existing rate. Thereupon the respondent filed a writ petition on March 21, 1952, challenging the above notification. The first challenge was on the ground that the estate of the respondent was not an estate within the meaning of the Madras Estates Land Act and therefore the Act was not applicable to it. Secondly, it was contended that the reduction in the rents made by the notification was so drastic as to result virtually in depriving the respondent of his right to hold and enjoy his property, as the outgoings were far in excess of the income after the reduction in rents. Consequently, the notification amounted to an unreasonable restriction on the right of the respondent to hold property under Article 19(1)(f) constitution.

The petition was opposed on behalf of the State and it was contended that it was incorrect to say that the outgoings were more than the income after the reduction of rents made by the impugned notification. It was pointed out that after meeting the cess, the quit-rent and ten per centum for collection charges, the respondent would have a net income of Rs. 603/- and the reduction in the circumstances could not be said to be so drastic as to virtually deprive the respondent of his right to hold property under Article 19(1)(6).

When the matter came to be argues before the High Court, three points were raised by the respondent, namely, (i) that the village in dispute was not an estate, (ii) that even if it was an estate the notification under the Act offended Article (19)(1)(f) of the Constitution because of the drastic nature of the reduction, and (iii) that the Act itself was ultra vires for the reason that it was contrary to the terms of Article 31 of the Constitution and section 299 of the Government of India Act, 1935. The third of these contentions, though it was not raised in the petition by the respondents, was eventually referred to a Full Bench and the question put to the Full Bench was in these terms :-

> "Whether the decision in Rajah of Bobbili v. State of Madras ((1952) 1 M.L.J. 174.) insofar as that Madras Act XXX of 1947 does not offend against section 299 of the Government of India Act, 1935, is good law ?"

It may be mentioned here that the Act was challenged soon after it was passed by the Rajah of Bobbili on various grounds one of which was that the Act was bad as it contravened section 299(2) of the Government of India Act. This challenged to the Act was repelled by the Madras High Court in the case of Rajah of Bobbili ((1952) 1 M.L.J. 174.) and it was held that mere reduction of rent was not acquisition of property within the meaning of section 299(2) of the Government of India Act and the effect of the Act was held to be that the landholder continued to be the owner of the estate as before, his title being left untouched. It was further pointed out that it was the tenant who was entitled to possession, the right of the landholder being only to recover rent and that right against was left unaffected by the legislation, the only change being that the collection of rent was to be made not by the landholder but by the Government. Further though the learned Judges in Rajah of Bobbili's case ((1952) 1 M.L.J. 174.) were apparently of opinion that the acquisition contemplated by section 299(2) of the Government of India Act was acquisition of title, they went on to say that even assuming that section 299(2) of the Government of India Act, covered cases of possession, there was no such taking of possession in the case before them under the Act as would attract that provision.

The reference to the Full Bench in the High Court was due to the challenge to the narrow view of the word "acquisition" which was said to have been taken in Rajah of Bobbili's case ((1952) 1 M.L.J. 174.) in view of certain later decisions of this Court. Eventually, however, the Full Bench

held that even if a wider interpretation was given to the word "acquisition" as used in section 299(2) of the Government of India Act, there was no deprivation of the property of the landholder by the Act within the meaning of section 299(2) and therefore the decision in the Rajah of Bobbili's case ((1952) 1 M.L.J. 174.) was still good law. The Full Bench also held that the provisions of the Act only regulated the relationship of landholder and tenant and as there was no acquisition by the Government even in the wider meaning to be given to the word "acquisition" in section 299(2) of the Government of India Act, the Act was not hit by Article 19(1)(f) and was a reasonable restriction on the right to hold property and in the interest of the general public. The Full Bench further held that, though prima facie the reduction of rents to the ryotwari level could not be said to be unreasonable, the view expressed in the Rajah of Bobbili's case ((1952) 1 M.L.J. 174.) that if in a particular case the result of the reduction of rates of rent had the effect of total or substantial deprivation of the landholder of his net income it would offend Article 19(1)(f) of the Constitution.

After this opinion of the Full Bench, the matter was again placed before a Division Bench for final decision. At that stage it seems that the point that the village in dispute was not an estate was given up and the only point urged was that the reduction was so drastic as to amount to an unreasonable restriction on the fundamental right to hold property under Article 19(1)(f). The learned Advocate General placed before the Bench the effect of the reduction based on the notification of June 27, 1950. It was found that prior to the reduction the net income of the respondent was Rs. 3,875/-, and after the reduction his net income was reduced to Rs. 457/13/8. It was urged by the learned Advocate General that the respondent was getting the rent at the highest rate prevalent in the ryotwari areas of the district and that it could not be said that the reduction of rates of rent to the level of the highest ryotwari rate was an unreasonable restriction on the right of the respondent to hold property. The Bench, however, observed that though ordinarily the reduction of rates of rent of the ryotwari level might be reasonable, there might be circumstances in a particular case to hold that the reduction was so drastic that it would be an unreasonable restriction. It was observed that the State might reduce the rent to such a level after deducting the legal charges and the cost of collection fixed on an arbitrary basic that there might be nothing left to the landholder. In such a case in the name of regulation of rents and collection thereof the State took away the grain and gave the husk to the landholder. The Bench then added that though it was easy to state the principle it was difficult to apply it to the facts of each case. It then went on to consider the circumstances under which it could be held that reduction was so drastic that the landholder was substantially deprived of his income, and was of opinion that having regard to the object of the Act, if the income of the landholder after reduction of rents did not fall below 25 per centum of his previous income it could be held that the reduction was not an unreasonable restriction on the right to hold property enshrined in Article 19(1)(f). As in this case, however, the income of the respondent fell far below 25 per centum of the income which he was getting before the reduction, the Bench held that the notification was bad. Thereupon the State Government asked for a certificate to appeal to this Court, which was granted; and that is how the matter has come up before us.

So far as the constitutionality of the Act is concerned, there was no serious challenge to it by the respondent. If one refers to the main provisions of the Act relating to reduction of rents which we have already set out above, it will appear that the object of the Act was to put a check on rack-renting in estate as defined in the Madras Estates Land Act. As such agricultural tenants formed a considerable group of cultivators in the State, it was thought necessary to ameliorate their condition. The Act was therefore enacted under the powers conferred on the provincial legislature under item 21, of List II of Schedule VII to the Government of India Act dealing with land. It provided for reduction of rent to the level at which the rents prevailed in the neighbouring area where there was ryotwari settlement. In these circumstances it cannot possibly be said that the reduction of the

prevailing rents to the ryotwari level was an unreasonable restriction on the right of the landholder of an estate to hold property under Article 19(1)(f). We must therefore hold that the Act is constitutional and lays down reasonable restrictions on the right of the landholder to hold his estate.

The attack based on reading the term "acquisition" in section 299 of the Government of India Act, 1935 in the wide sense of any interference with property even when the title thereto does not pass to the State, which was the point debated before the Full Bench is no longer a live issue since the matter is concluded against the respondent by the decision of this Court in Guru Dutt Sharma v. State of Bihar ([1962] 2 S.C.R. 292.).

This brings us to the main point that has been argued before us by counsel for the parties. It is urged on behalf of the appellant that the High Court was wrong in holding that where the reduction is such that the previous net income is reduced below 25 per centum there would be an unreasonable restriction on the right to hold property, merely because of this circumstance. It is said that the fixation of this percentage at 25 per centum is more or less arbitrary. In any case it means that where a landholder had been successful enough previously to practise rack-renting as an art and to increase the rents of his tenants unconscionably, he would get protection because in such a case it was likely that the reduction would be drastic and may even result in the reduced net income being less than 25 per centum of the previous net income. On the other hand in the case of a landholder who was a humane person and did not increase his rents unconscionably, the reduction of rents on the basis of the same rate which might be used in the case of the former landholder who was a rack-renter may not be hit because in his case the reduction may not be below 25 per centum. So it is urged that if the reasonableness is to depend upon by how much the previews net income is reduced after the reduction, it will always work in favour of a landholder who was a rack-renter even though the basis of reduction may be on the same rates in the case of a rack-renting landholder and in the case of a humane landholder. Therefore, it is urged that it the reduction is reasonable in the case of a humane landholder because it is brought into line with the prevailing rates of rent in the neighbouring areas under the ryotwari settlement, there is no reason why such reduction should not continue to be reasonable in the case of the other landholder. The fact that in one case the reduction may not be below 25 per centum while in the other case it may go below 25 per centum will make no difference to the reasonableness of the reduction, for in either case the basis of the reduction is the same. We are of opinion that there is force in this argument and it must be accepted. What we have to see is whether the Act when it provides for reduction of rent proceeds on a reasonable basis i.e. whether the reduction of rent to the level of the prevailing rent for the same class of land in the neighbouring areas where ryotwari settlement prevails is reasonable. This in our opinion is a reasonable basis on which the rent in estates covered by the Madras Estates Land Act can he reduced. Once this basis is accepted as reasonable, we fail to see how the ratio between what the landholder was getting before the reduction and what he gets after the reduction will make what is per se reasonable into an unreasonable restriction. Theoretically it may be possible to say that the reduction may be so much that nothing may be left to the landholder. This is what the responded tried to make out in his writ petition, for his case therein was that the rents were so far reduced in his case that instead of getting an income of Rs. 3,875/- he would be getting no income at all and would be actually suffering a net loss of Rs. 655/- by his holding the estate after reduction of rents, This of course has been found by the High Court to be incorrect and in actual fact the landholder is left with a net income of Rs. 457/- and odd after the reduction in rent. Therefore, except for the theoretical possibility where the landholder may be left with nothing on reduction of rents, it cannot be said from the mere fact that in some cases the ratio of net income falls after reduction of rent as compared to the net income before reduction below 25 per centum that the restrictions imposed by the Act are unreasonable. Actually we feel that there cannot possible be any case where after the reduction there will be noting

left to the landholder. We cannot therefore agree with the High Court that simply because in a particular case the net income after reduction falls below 25 per centum of the net income before reduction the notification which results in such a position is an unreasonable restriction on the right of the landholder to hold his estate. As we have said already, the ratio by which the net income will fall after reduction will depend upon whether the landholder whose rents are being reduced was a rack-renter or a humane person; in the case of a rack-renter the fall may be heavier while in the case of a humane person the fall may be less. But if the basis on which the reduction is made is the same in both cases and is reasonable, we see no reason for holding that a notification which may in a given case result in a fall of the net income which is even below 25 per centum of the previous net income would necessarily be bad as an unreasonable restriction on the right of the landholder to hold his estate. It is important in this connection to remember that the rent allowed to the respondent compares favourably with the highest rent payable by the ryotwari tenants in the locality. Therefore, the basis on which rents are being reduced under the Act being good and reasonable the result of such reduction would not make the notification in a particular case bad except where that theoretical case is reached where there is no income left to the landholder after reduction, which in our opinion is impossible. We therefore allow the appeal and setting aside the order of the High Court dismiss the writ petition with costs throughout.

Appeal allowed.

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