SUPREME COURT OF INDIA

Special Officer, Rent Reduction, Board of Revenue, A.P.

Vs.

Katragadda Lakshminadha Rao Naidu

C.A.No.789 of 1962

(P. B. Gajendragadkar, C.J.I., J. C. Shah and N. Rajagopala Ayyangar, JJ.)

09.09.1964

JUDGEMENT

AYYANGAR, J.:

1. The Madras Legislature enacted Act XXX of 1947, entitled "The Madras Estates Land (Reduction of Rent) Act, 1947" which was designed, as recited in its preamble, "to provide for the reduction of rents payable by ryots in estates governed by the Madras Estates Land Act, 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". Section 2 of the enactment empowered the State Government to appoint a Special Officer for the purpose of recommending fair and equitable rates of rent for the ryoti lands in such estate or estates. The further provisions of that Section prescribed the method to be adopted by the Special Officer for arriving at a fair and equitable rate of rent to be payable by the ryots in the estates. After the determination of the fair and equitable rent by the Special Officer, S. 3(1) provided for the Special Officer submitting his recommendation to the State Government through the Board of Revenue specifying (i) the extent, if any to which the rents for each class of such lands in each village or group of villages in the estate should in his opinion, be reduced, and (ii) the rate of rent payable for each such class after such reduction. Provision is thereafter made for the consideration by the State Government of the recommendations of the Special Officer and, the remarks of the Board of Revenue and thereafter the State Government is empowered in subsection (2), by order published in the Fort St. George Gazette, to fix the rates of rent payable in respect of each class of ryoti land in each village in the estate. Sub-section (3) of S. 3 enacted that an order made under sub-section (2) would take effect from the commencement of the fasli year 1357, Section 8 of the Act might also be referred to in this context. That Section reads as follows :

"8. The validity of the following orders and proceedings shall not be liable to be questioned in any Court of Law :-

(i) any order made under Section 3, subsection (2);

....."

This enactment received the assent of the Governor on January 6, 1948 and was published in the Fort St. George Gazette on January 7, 1948. We have summarised, in very general terms, these provisions of the law which are sufficient for the purpose of considering the point that arises for

consideration in this appeal.

2. The respondent is the proprietor of the Inam estate of Jinjeru-a whole-inam-village situated in Bandar Taluk of Krishna district in regard to which the rents were notified to be reduced by a publication in the Gazette on March 14, 1949 and that notification was implemented; the rents were determined as stated therein and have been collected at those rates ever since.

3. While things were continuing in this State the Special Officer of the Board of Revenue, Andhra issued a notice on February 29, 1956 to, inter alia, the respondent reading as under :

"As per the provisions contained in S. 3(1) of the Madras Estates Land (Rent Redution) Act, 1947 it is proposed to reduce the rents with respect to the lands under occupation of the ryots the particulars of which are given below. Anybody having objection to these proposals may send in their objections reduced in writing before March 20, 1956 or within 7 days after the receipt of this notice, otherwise any objection will not be entertained later."

Then followed details of the then existing rates of rent and the extent to which the rents were proposed to be reduced. Immediately thereafter the respondent moved the High Court of Andhra Pradesh under Art. 226 of the Constitution for the issue of a writ of prohibition restraining the State authorities from proceeding with the enquiry in pursuance of the notice dated February 29, 1956. The point that was raised in support of this prayer was that the Rent Reduction Act did not contemplate a second fixation of fair rent, and that when once the fair rent in respect of an "estate" had been fixed after following the procedure prescribed by S. 2 of the Act there was no further power to modify or reduce the rates of rent so fixed. The answer of the appellant in the counter-affidavit filed before the Court was that there were some errors in the original fixation of rent and that the authorities were merely trying to rectify those errors which it contended was not prohibited by any provision of the Rent Reduction Act. There was also a plea raised that on the strength of Ss. 13 and 15 of the Madras General Clauses Act which read :

"13. Where an Act confers a power or imposes a duty then the power maybe exercised and the duty shall be performed from time to time as occasion requires."

And

"15. Where an Act confers a power to make any rules or bye-laws, or to issue notification or orders, the power shall be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, amend or vary the rules, bye-laws notification or orders."

that the power to fix the fair and equitable rent was not exhausted by following the procedure under S. 2 of the Act when the rents had been fixed for the Jinjeru estate by the notification dated March 14, 1949.

4. The petition came on for hearing, in the first instance, before a Division Bench of the Court which, having regard to the importance of the question involved, referred the matter for decision by a Bench of three Judges. The learned Judges held that the State Government had no power to reduce the rent fixed under the notification issued under S. 3 of the Rent Reduction Act to the detriment of the landlord. The petition was accordingly allowed and the rule was made absolute, and a writ was directed to be issued as prayed for. The appellant thereafter applied to the Court for a certificate of fitness under Art. 133(1)(c) of the Constitution and this having been granted, the appeal is now

before us.

5. The judgment of the High Court from which this appeal has been brought was delivered on February 23, 1960. A day previous to that, however, a statute enacted by the Andhra legislature - The Madras Estates Land (Reduction of Rent) (Andhra Pradesh Amendment) Act, 1960 (Act IX of 1960) received the assent of the President. By this enactment power is conferred upon the State Government to correct errors in notifications issued under S. 3(2) of the Act. The learned Solicitor-General who appeared for the appellant did not contest the correctness of the judgment of the High Court on the Rent Reduction Act, as it originally stood, but based his submissions to us entirely on the effect of the provisions contained in this amending Act. The Amending Act is a very short enactment and consists of but 5 Sections. The material provisions of the Act, relevant for our purposes are contained in its S. 2 by which S. 3-A, 3-B and 3-C are added to the parent Act and in S. 5 by which certain orders passed, notifications etc., issued under the parent Act before the commencement of the Amending Act are validated. The provision in relation to the correction of errors in orders made under S. 3(2) is contained in S. 3-B and this was the provision which, it is submitted, justifies the action of the Government taken in 1956 and precludes it from being impeached.

Section 3-B runs :

"3-B, Correction of orders made under Section 3(2) - (1) If the State Government are satisfied that in any order made by them under sub-section (2) of Section 3, there is any error which does not vitiate the order but requires correction, they may, by order published in the Andhra Pradesh Gazette, correct such error, and the correction shall unless the State Government otherwise direct, be deemed to have taken effect from the commencement of the fasli year 1357.

2. Where in consequence of a correction under sub-section (1), additional rent becomes recoverable in respect of any land under subsection (4) of Section 3, such rent shall be paid before the commencement of the fasli year immediately succeeding that in which the correction is published."

We are unable to accept this argument. In the first place, the section is prospective in the sense that it empowers the Government to take action of the sort contemplated by S. 3-B after the amending Act comes into force i.e., after the 22nd February, 1960. In other words, in the provision in S. 3-B is relied on, it merely enables the State Government to initiate proceedings for correcting errors. Indeed, this position was not disputed by learned Counsel for the respondent that Government can initiate action in the present case, hereafter to correct the rates of rent fixed by the notification under S, 3(2) issued on March 14, 1949. In terms therefore, it would not help the appellant to sustain the plea that the notice issued on February 29, 1956 to the respondent to show cause why the rent of the inam estate should not be reduced should be deemed to be one which is either under or authorised by S. 3-B introduced by the Amending Act.

6. The learned Solicitor-General, however, contended that S. 3-B was concerned with the correction of errors in the rates fixed in S. 3(2) and that the provision would not preclude the utilisation of a notice issued prior to the coming into force of the Amending Act with that object, from being treated as a basis for action being taken under S. 3-B. Without pronouncing upon the correctness of this submission it is sufficient to point out that the terms of the notice of February, 1956 cannot be fitted into the type of notice contemplated by S. 3-B. The latter would be a notice in which the reduction is sought to be made on account of some error in the earlier fixation. There is, however, no trace of any allegation of error in the notice of February, 1956 whose text we have set out earlier,

though it was pointed out that when the matter came before the Court, the validity of the notice was sought to be sustained on the allegation that it was intended to initiate proceedings for correcting an error. What we are concerned with, in construing S. 3-B is whether the notice issued before S. 3-B became law could, in law, be treated as one issued with a view to action being taken under its provision. It is in that sense that we have observed that it cannot be fitted into the frame of the modification permitted by S. 3-B. As we have pointed out earlier, there is nothing to preclude the Government from issuing a fresh notice and proceeding to determine the rent in accordance with the terms of S. 3-B and the rest of the Rent Reduction Act.

7. Some faint attempt was made to suggest that the notice issued on February 29, 1956 has itself been validated by S. 5 of the Amending Act. That Section reads :

"5. Any order made or notification issued cancelling or correcting an order made under sub-section (2) of Section 3 of the principal Act, before the commencement of this Act which would have been valid if this Act had then been in force, shall be deemed to be valid for all purposes as if such order was made or such notification was issued in the exercise of the powers conferred by or under the principal Act as amended by this Act."

It is clear that on the terms of this validation provision the notices issued cannot be validated. No doubt, if reduction of rent had taken place on the ground that there was error in the original fixation, such a reduction would not have been open to challenge, for orders made or notifications issued cancelling or correcting an order are deemed to be valid as if the Act had been in force. It is obvious that the notice dated February 29, 1956 cannot be brought within the description of the proceeding validated by S. 5.

8. The appeal accordingly fails and is dismissed with costs.

Appeal dismissed.

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