

Sri Navneetheswaraswami Devasthanam

Vs

The State of Madras

Civil Appeal No. 1477 of 1969

(K. K. Mathew, A. C. Gupta, V. R. Krishna Iyer JJ )

07.02.1975

JUDGMENT

MATHEW, J. - The appellant, Sri Navneetheswaraswami Devasthanam in Tanjore District, Tamil Nadu is a religious trust of a public nature. It filed a writ petition praying for issue of a writ in the nature of certiorari quashing the notification made by the State of Madras in G.O. No. Ms. 2561 - Revenue dated September 1, 1965 published in the Gazette dated September 8, 1965 notifying that the village of Sellur belonging to the appellant came under the provisions of the Madras Inam Estates (Abolition and Conversion into Ryotwari) Act (Act 26 of 1963). The writ petition was originally heard along with a batch of there writ petitions raising similar question. But during the course of the argument of the petitions, as a special contention was sought to be raised by the appellant, the writ petition was separated from the batch and disposed of separately. The special contention raised by the appellant in a supplementary affidavit was that the appellant was in personal cultivation of the lands in question and as Act 26 of 1963 made no provision for compensation in accordance with the second proviso to Article 31A(1), the notification was bad for that reason alone. The High Court dismissed the writ petition and this appeal, by certificate, is against that order.

2. There is no dispute that the appellant was the sole proprietor of the inam village in question and the inam lands were under the direct possession of the appellant. On April 12, 1962 the President gave assent to the Madras Public Trusts (Regulation of Administration of Agricultural Lands) Act (Madras Act 57 of 1961) and that was published in the Gazette on April 21, 1962.

3. By two notifications dated December 21, 1963 and March 29, 1965, the State Government, in the exercise of its power under Section 52 of the Madras Act 57 of 1961, exempted the entire extent of the land from the operation of Section 6 of that Act which provides that when on the date of the commencement of that Act, any public trust personally cultivating land in excess of twenty standard acres and continuing to so cultivate that land on such date as may be specified in the notification issued by the Government in that behalf, the trustee of the public trust shall, within such period as may be prescribed, from the date specified in such notification, lease out the lands in such excess to a co-operative farming society or the other persons specified therein. The effect of the two notifications was that the appellant was not obliged to lease out any part of the lands covered by the notifications and could personally cultivate the same.

4. The contention of the appellant was that since the lands were exempted from the purview of Section 6 of the Madras Act 57 of 1961 by the notifications made under Section 52, the appellant was in personal cultivation and, under the second proviso to Article 31A(1), unless provision is made for payment of compensation at a rate which shall not be less than the market value of the

land, the law relating to the acquisition, namely, the provisions of Act 26 of 1963 cannot be valid.

5. The second proviso to Article 31A(1) states as follows :

Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building, or structure provides for payment of compensation at a rate which shall not be less than the market value thereof.

6. Therefore, the question is whether there was any law in force which prescribed the ceiling limit applicable to the appellant. Section 2 of the Madras Land Reforms (Fixation of Ceiling on Land) Act (Act 58 of 1961) provides :

Subject to the provisions of Section 6, nothing contained in this Act shall apply to lands held by religious trusts of a public nature.

7. It would follow that the provision of that Act fixing the ceiling on ownership of land was not applicable to the appellant. It was only if the ceiling provision of that Act was applicable to the appellant that the second proviso to Article 31A(1) would be attracted. So, even if the appellant was in personal cultivation of the land the second proviso to Article 31A(1) can have no application.

8. Counsel for the appellant submitted that since the law relating to ceiling did not fix any limit to the ownership of land by the appellant, the extent of the land owned by itself provided the ceiling on its ownership and therefore the provisions of second proviso to Article 31A(1) will apply. We are unable to agree. The proviso is clear that unless the law fixing the ceiling limit on the ownership of land is applicable to the appellant, the appellant will not be entitled to the benefit of the proviso.

9. We think the High Court was right in its conclusion and we dismiss the appeal. No costs.

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