

SUPREME COURT OF INDIA

Commissioner of Wealth-tax, A.P.

Vs.

Officer-in-charge (Court of Wards), Paigah

C.A.Nos.2552-2556 of 1969

(A. N. Ray, C.J.I., M. H. Beg, R. S. Sarkaria, P. N. Shinghal and Jaswant Singh, JJ.)

06.08.1976

JUDGEMENT

M. H. BEG, J.:-

1. Civil appeals Nos. 2552-2556 of 1969, are directed against a judgment of the Full Bench of the High Court of Andhra Pradesh. The case was certified as fit under Articles 132 and 133 of the Constitution for an appeal to this court. The question involved, as framed in the Andhra Pradesh case is, on the facts and circumstances of the present case are certain lands situated at Begumpet, Lalguda, Jaiguda, Subsimandi, Yerraguda, Zamboorkhana, and vicarabad, "agricultural lands" within the meaning of Section 2 (e) (i) of the Wealth-tax Act (hereinafter referred to as the Act)?

2. If any of the lands mentioned above are agricultural lands, as defined by the Act, they would be excluded from the definition of "assets" given in Section 2 (e) of the Act, and therefore, exempt from wealth-tax, Section 2 (e) says:

"2 (e) 'assets' includes property of every description, movable or immovable, but does not include,-

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(i) agricultural land and growing crops grass or standing trees on such land;"

3. The words 'agricultural land' occur in entries 86, 87 and 88 of List 1 to 7th Schedule of our Constitution relating to matters on which Parliament may legislate. Entry 86 here says: "Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies: taxes on the capital of companies. Entries 87 and 88 deal with Estate duty and duties of succession to property and each of them excludes agricultural land from property on which taxes may be levied by Parliament. Entry 18 of List II giving subjects of exclusively state legislation says:

"Land, that is to say, rights in or over land, land tenures including the relation of landlord and tenant, and the collection of rents, transfer and alienation of agricultural land: land improvement and agricultural loans; colonization."

4. It is thus clear that "agricultural land" is only a species of land. The main question before us is whether it should stand for all land which is capable of being utilised for agricultural purposes or for some land which either is being actually used or has been set apart or prepared for use for agricultural purposes so as to indicate the intention of the owner or occupier of the land to put it to agricultural uses. This raises the further question: What is an agricultural purpose or agriculture?

5. The term "agriculture" was discussed very thoroughly by this Court in *Commr. of Income Tax West Bengal, Calcutta v. Benoy Kumar Sahas Roy*, (1957) 32 ITR 466 at pp. 472 and 510 = (AIR 1957 SC 768 at p. 772). This Court said there at pp. 472-473 (of ITR) = (at p. 772 of AIR):

"The term 'agriculture' and 'agricultural purpose' not having been defined in the Indian Income-tax Act, we must necessarily fall back upon the general sense in which they have been understood in common parlance, 'Agriculture' in its root sense means *ager*, a field, and *culturae*, cultivation, cultivation of a field which of course implies expenditure of human skill and labour upon land. The term has, however, acquired a wider significance and that is to be found in the various dictionary meanings ascribed to it. It may be permissible to look to the dictionary meaning of the term in the absence of any definition thereof in the relevant statutes".

Therefore, this Court, beginning with the decision of Lord Coleridge in *R. v. Peters*, (1886) 16 QBD 636 at page 641 scanned and discussed various decisions of English and Indian Courts, and the meanings given in various dictionaries of the English language, as well as in the law dictionaries. It then reached the conclusion (at p. 510) (of ITR) = (at page 789 of AIR):

"If the term 'agriculture' is thus understood as comprising within its scope the basic as well as subsequent operations in the process of agriculture and the raising on the land of products which have some utility either for consumption or for trade and commerce, it will be seen that the term 'agriculture' receives a wider interpretation both in regard to its operations as well as the results of the same. Nevertheless there is present all throughout the basic idea that there must at the bottom of it cultivation of land in the sense of tilling of the land, sowing of the seeds, planting, and similar work done on the land itself. This basic conception is the essential sine qua non of any operation performed on the land constituting agricultural operation. If the basic operations are there, the rest of the operations found themselves upon the same. But if these basic operations are wanting the subsequent operations do not acquire the characteristic of agricultural operations."

6. In *Benoy Kumar Sahas Roy's case* (AIR 1957 SC 768) (supra) the question before this Court was whether income from forest lands derived from sal and piyasal trees "not grown by human skill and labour" could constitute agricultural income. The test applied there was whether there was some integrated activity which could be described as agricultural operation yielding income. It was pointed out that, although, a mere wild or spontaneous growth of trees, not involving the employment of any human labour or skill for raising them, could not be agricultural income, yet, when there was a forest more than 150 years old, which had been carefully nursed and attended to by its 'owners' the income would be agricultural. It is true that this case is not a direct authority upon what is "agricultural land". Nevertheless, it goes a long way in helping us to decide what could be agricultural land. We think that this must be land which could be said to be either actually used or ordinarily used or meant to be used for agricultural purposes. In other words, "agricultural land" must have a connection with an agricultural user or purpose. It is on the nature of the user that the very large number of definitions and authorities discussed by this Court in *Benoy Kumar Sahas Roy's case* (supra), have a direct bearing. In that case, this Court held that the wider meaning given to agricultural operations, such as breeding and rearing of live stock, poultry farming, or dairy farming will not be applicable. It held that the correct test to apply would be to find out whether human labour had been applied to the land itself, in order to extract from its natural powers, added to or aided by other natural or artificial sources of strength to the soil, a product which can yield an income.

7. In the case before us. the question is a connected one. Here also the term "agricultural land" has not been defined. That, however, does not mean that the land to be considered can be divorced from its actual or natural or ordinary user. If all land which is capable of being used for agriculture could be intended to be excluded from "assets" practically every type of land, including that covered by buildings, would fall within that class Hence it seems to us to be impossible to adopt so wide a test as would obviously defeat the purpose of the exemption given. Apparently, agricultural land is excluded from the definition of "assets" as it was thought that Parliament was not competent to

impose taxes which will fall on agricultural land. Whatever may be the reason for the exemption we think that the exemption is connected with the user of land for a purpose which must be agricultural. It is an enactment to tax "wealth" which includes all that is ordinarily understood as "assets". The person claiming an exemption of any property of his from the scope of his assets must satisfy the conditions of the exemption.

8. It is true that in Benoy Kumar Sahas Roy's case (AIR 1957 SC 768) (supra) this Court pointed out that meanings of words used in Acts of Parliament are not necessarily to be gathered from dictionaries which are not authorities on what Parliament must have meant. Nevertheless, it was also indicated there that, where there is nothing better to rely upon, dictionaries may be used as an aid to resolve an ambiguity. The ordinary dictionary meaning cannot be discarded simply because it is given in a dictionary. To do that would be to destroy the literal rule of interpretation. This is a basic rule relying upon the ordinary dictionary meaning which, in the absence of some overriding or special reasons to justify a departure, must prevail. Moreover, it was held there that the dictionary meanings of the word "agricultural" were wider than what was meant by "agricultural income" as that term was used in the income-tax Act. Even if we could give a wider connotation to the term "agricultural" that the one it carries with it is the Income-tax Act, we cannot dispense with credible evidence of at least appropriation or setting apart of the land for a purpose which could be regarded as agricultural and for which the land under consideration could be reasonably used without an alteration of its character. This, we think, is the minimal test of "agricultural land" which should be applied in such cases.

9. In stating the facts of the case with regard to the Begumpet Property, which, according to a rather surprising agreement between parties, was to be used for reaching an inference applicable to all other lands in the case, the High Court said:

"The property at Begumpet was known as 'Begumpet Palace, Hyderabad.' The buildings in this property were valued at Rs. 8,81,336/- while the vacant land comprising an area of about 108 acres was valued at Rs. 15,69, 052. The entire plot of land was enclosed in a compound wall and the various buildings inside it had their own compound walls. The property is situated within the limits of the Hyderabad Municipal Corporation. The land had never been actually used for agriculture, in the sense, that it had never been ploughed or tilled. The property is situated adjacent to the tank known as 'Hussain Sagar' on the southern side, and there are two wells in the said land. The land was capable of being used for agriculture and land revenue was being assessed and paid in respect of the said lands. A portion of the land was acquired by the Government of Hyderabad on 15th September, 1955 and utilised by them for construction of buildings thereon."

10. The High Court then stated the views of the taxing authorities as follows:

"On these facts, the Wealth Tax Officer, came to the conclusion that the lands could not be treated as

"agricultural lands" as no agricultural operations were carried on, in the sense of ploughing and tilling the land and raising any crop thereon. The Appellate Assistant Commissioner confirms the order of the Wealth Tax Officer on this point. The assessee preferred an appeal to the Income-tax Appellate Tribunal. The Tribunal also took the view that the said land was never intended to be used for agriculture and that the lands were never ploughed or tilled and that the lands were situated within the limits of the Hyderabad Municipal Corporation and that the presumption would be that they were not agricultural lands and that the presumption was not rebutted, as no agricultural operations were ever carried on in the said land. On this view, the Tribunal confirmed the order of the Appellate Assistant Commissioner on this point."

11. The High Court had discussed the various meanings of the term "agriculture" and pointed out how it had acquired a wide sweep. It also discussed a number of cases, including *Sarojini Devi v. Srikrishna*, AIR 1944 Mad 401 which had not been followed by a Division Bench of the Andhra Pradesh High Court in *Smt. Manyam Meenakshamma v. Commr. of Wealth Tax. A. P.*, (1967) 63 ITR 534 at p. 544 = (AIR 1967 Andh Pra 189 at p. 192). on the ground that the Madras view, that it was enough that the land was capable of being used for agricultural purposes, was no longer good law in view of the pronouncement of this Court in *Benoy Kumar Sahas Roy's case* (AIR 1957 SC 768) (*supra*). The Andhra Pradesh Division Bench had said, in *Smt. Manyam Meenakshamma's case* (*supra*) (at p. 544 of ITR) = (at p. 192 of AIR):

"We are inclined to agree with the observation of Hegde and Ahmed Ali Khan JJ. in *Sri Krishna Rao v. Third Wealth Tax Officer*, (1963) 48 ITR 472 = (AIR 1963 Mys 111), that the present characteristics and not the potentialities of an land are the proper criterion. If a land is ordinarily used for purposes of agriculture or for purposes subservient to or allied to agriculture it would be agricultural land. If it is not so used, it would not be agricultural land. The question how a land is ordinarily used would be one of fact depending on the evidence in each case. If, for instance, an agricultural land, as we have interpreted above, is left fallow in a particular year owing to adverse seasonal conditions or to some other special reason. it would not cease to be agricultural land".

12. Apparently, the conflict between the views contained in *Sarojini Devi's case* (AIR 1944 Mad 401) (*supra*) and in *Smt. Manyam Meenakshamma's case* (AIR 1967 Andh Pra 189) (*supra*) had led to a reference of the case to a larger bench. The Full Bench of the Andhra Pradesh High Court after discussing a number of cases of various High Courts, preferred the Madras High Court view, principally on two grounds : firstly because as wide a connotation as was possible to give to the words "agricultural land" was preferable in a taxing statute; and, secondly, because the entry to the large tract of vacant land in the Begumpet Palace in revenue records as assessable to land revenue raised a presumption of its agricultural character.

13. The Full Bench stated its conclusions on questions of law as follows:

"(1) The words 'agricultural land' occurring in Section 2 (e) (i) of the Wealth Tax Act should be given the same meaning as the said expression bears in Entry 86 of List I and given the widest meaning;

(2) The said expression not having been defined in the Constitution, it must be given the meaning which it ordinarily bears in the English language and as understood in ordinary parlance;

(3) The actual user of the land for agriculture is one of the indicia for determining the character of the land as agricultural land;

(4) Land which is left barren but which is capable of being cultivated can also be 'agricultural land' unless the said land is actually put to some other non-agricultural purpose, like construction of buildings or an aerodrome, runway, etc. thereon, which alters the physical character of the land rendering it unfit for immediate cultivation:

(5) If land is assessed to land revenue as agricultural land under the State revenue law, it is a strong piece of evidence of its character as agricultural land;

(6) Mere enclosure of the land does not by itself render it a nonagricultural land;

(7) The character of land is not determined by the nature of the products raised, so long as the land is used or can be used for raising valuable plants or crops or trees or for any other purpose of husbandry:

(8) The situation of the land in a village or in urban area is not by itself determinative of its character."

14. The Full Bench rejecting the effect of such features as construction of a Palace and the location of the land within its compound said:

"The land is of a large extent of 108 acres and abuts Hussain Sagar tank and has two wells in the land itself. These indicate that the land possesses all the characteristics of agricultural land and that it is capable of being put to agriculture. It is also not disputed that the land is vacant and has not

been actually put to any purpose other than agriculture and that the physical character of the land is not such as to render it unfit for immediate cultivation. The other relevant facts is that the land has been admittedly assessed to land revenue as "agricultural land" under Section 50 of the Hyderabad Land Revenue Act. These factors in our opinion, strongly indicate that the land in question is agricultural land."

15. We think that it is not correct to give as wide a meaning as possible to terms used in a statute simply because the statute does not define an expression. The correct rule is that we have to endeavour to find out the exact sense in which the words have been used in a particular context. We are entitled to look at the statute as a whole and give an interpretation in consonance with the purposes of the statute and what logically follows from the terms used. We are to avoid absurd results. If we were to give the widest possible connotation to the words "agricultural land", as the Full Bench of the Andhra Pradesh High Court seemed inclined to give to the term "agricultural land", we would reach the conclusion that practically all land, even, that covered by buildings, is "agricultural land" inasmuch as its potential or possible use could be agricultural. The object of the Wealth-tax Act is to tax surplus wealth. It is clear that all land is not excluded from the definition of assets. It is only "agricultural land" which could be exempted. Therefore, it is imperative to give reasonable limits to the scope of the "agricultural land", or, in other words, this exemption had to be necessarily given a more restricted meaning than the very wide ambit given to it by the Andhra Pradesh Full Bench.

16. The Full Bench itself saw the need for some kind of limitation to the application of "widest purpose" principle, if one may call it that. Therefore, evidently in an attempt to avoid the unreasonable conclusion to which too wide a definition of "agricultural land" would naturally lead to, the Full Bench, in the fourth conclusion recorded by it, held that, if some vacant land is actually built upon, it changes its physical characteristics and becomes unfit for immediate cultivation. It thus qualified its view that the widest possible meaning must be given to "land". Its final view was that only such land could cease to be agricultural land as had actually become unfit for immediate use for an agricultural purpose. This view seems to imply that one has to start with the presumption that all "land" as such, is "agricultural land". If one were to start with such a presumption, (although, we must, in a fairness to the views actually expressed by the Full Bench, observe that it did not expressly say so). Even desert land will have to be first presumed to be agricultural land. We feel certain that the Full Bench did not mean to carry the application of assumptions or principles, which seem to follow from its reasoning, so far as that.

17. Conclusion 6, 7 and 8 are only negative in character. They merely indicated what could not be conclusive in deciding whether the land was agricultural. Conclusions 6 to 8, as stated above, would seem to be correct. But, in our opinion, they do not carry us far in formulating a test of what is agricultural land. Conclusion No. 5 seems to have been the real or positive test, based on entries in revenue records, actually adopted by the Full Bench for determining the nature of the land.

18. The attempted application of the principles laid down by the Full Bench shows that what were treated as tests were really presumptions arising from the following facts : firstly, that the area was 108 acres abutting Hussain Sagar tank; secondly, that this land had two wells in it; thirdly, that it was capable of being used for agricultural purposes; fourthly, that it had not been actually put to any use which could change the character of land by making it unfit for immediate cultivation; and, fifthly, that it was classified and assessed to land revenue as "agricultural land" under the provisions of the Andhra Pradesh Land Revenue Act 8 of 1317 Fasli perhaps on the assumption that it could be used for agriculture.

19. We may observe that the first four indicia set out above are based on absence of any user for non-agricultural purposes. Hence, they are inconclusive. The last feature does seem to provide some evidence of the character of the land from the point of view of its purpose. Section 50 of the Hyderabad Land Revenue Act (No. VIII of 1317 F) (now called the Andhra Pradesh Land Revenue Act) lays down :

"50. Land revenue shall be assessed according to the various modes of use.

(a) Agricultural use.

(b) In addition to agricultural use any other use from which profit or advantage is derived.

When rate is assessed on any land for any one of the aforesaid purposes and the land is appropriated for any other purpose the rate thereof shall be altered and fixed again, although the term of subsisting settlement may not have expired.

If any land granted by the Government with remission of land revenue for any special purpose is appropriated to some other purpose against the intention of the grant, the land revenue thereof shall be recovered.

It shall be lawful for the Talukdar, and in case a taluqu is under settlement, for the Commissioner of Survey Settlement or Commissioner of Land Records after giving a hearing to the land-holder to prohibit its appropriation for any particular purpose and record reasons therefore and to summarily evict the holder who may have appropriated the said land to prohibited purpose."

20. Provisions of the Andhra Pradesh Land Revenue Act seem to involve quasi-judicial proceedings, or at least, an enquiry into the purposes for which land to be assessed has been appropriated. The Full Bench of the Andhra Pradesh High Court has held these entries to be "strong prima facie evidence", and, it practically decided the case on the basis of these entries. But, the difficulty seems to us to be that the taxing authorities had given a categorical finding that the land under consideration had neither been used for an agricultural purpose nor was it ever intended to be so used. It may be that this finding was based on no evidence or was based on the circumstances that the land appeared to have been kept as the environs of a huge palace, unused for any agricultural purpose. It may be that the past history of such lands could give rise to some guess-work that no agricultural user was intended by the owners of the Begumpet Palace. But, is it possible to reach a categorical finding or conclusion on the basis of general notions, based on past history of the way in which such lands were treated by their aristocratic owners? At any rate, there presumably was some, possibly quasi-judicial, enquiry at the time of classification of land as "agricultural" under the provisions of Sec. 50 of the Andhra Pradesh Land Revenue Act. There must have been some evidence given for such a classification.

21. Learned Counsel for the assessee respondents submitted that no evidence had been led on the question of intended user before the Taxing authorities as the "prima facie evidence", provided by the entries in the revenue records, was considered enough. It has, however, to be remembered that such entries could raise only a rebuttable presumption. It could, therefore be contended that some evidence should have been led before the Taxing authorities of the purpose or intended user of the land under consideration before the presumption could be rebutted. If the "prima facie" evidence of the entries was enough for the assessee to discharge his burden to establish an exemption, as it seemed to be, evidence to rebut it should have been led on behalf of the Department.

22. We think that this aspect of the question was not examined by the Full Bench from a correct angle. Although it seems to have based its conclusion primarily on the "prima facie" evidence provided by the entries under Section 50 of the Andhra Pradesh Land Revenue Act, it had also used other indicia which were really not very helpful. They had a bearing on potentialities for agricultural user. The Full Bench had, however, not recorded a finding that the conclusion reached by the Taxing authorities, that the land was never even intended to be used for an agricultural purpose, rested on no evidence at all. It had not given its reasons for rejecting this finding of the Tribunal.

23. We all think that the Full Bench was not correct in adopting the view expressed in Sarojini Devi's case (AIR 1944 Mad 401) (supra) by the Madras High Court where it was held that it was enough to show that the land under consideration was capable of being used for agricultural purposes. This erroneous view also seems to us to have affected the conclusion of the Full Bench on what was essentially a question of fact. It had led the Full Bench into giving excessive weight to considerations which had a bearing only on potentialities of the land for use for agricultural purposes.

24. For the reasons already given, we do not think that the term "agricultural land" had such a wide scope as the Full Bench appears to have given it for the purposes of the Act we have before us. We agree that the determination of the character of land, according to the purpose for which it is meant or set apart and can be used, is a matter which ought to be determined on the facts of each particular case. What is really required to be shown is the connection with an agricultural purpose and user and not the mere possibility of user of land, by some possible future owner or possessor, for an agricultural purpose. It is not the mere potentiality, which will only affect its valuation as part of "assets", but its actual condition and intended user which has to be seen for purposes of exemption from wealth-tax. One of the objects of the exemption seemed to be to encourage cultivation or actual utilisation of land for agricultural purposes. If there is neither anything in its condition, nor anything in evidence to indicate the intention of its owners or possessors, so as to connect it with an agricultural purpose, the land could not be "agricultural land" for the purposes of earning an exemption under the Act. Entries in revenue records are, however, good prima facie evidence. We do not think that all these considerations were kept in view by the taxing authorities in deciding the question of fact which was really for the assessing authorities to determine having regard to all the relevant evidence and the law laid down by this Court. The High Court should have sent back the case to the assessing authorities for deciding the question of fact after stating the law correctly.

25. We think that this is a fit case in which we should set aside the judgment of the Full Bench of the High Court and hold that the tribunal should determine afresh from a correct angle, the question of fact whether any of the lands under consideration were "agricultural" or not for the purposes of the Act before it. Accordingly, we allow these appeals, set aside the judgment and order of the Full Bench and send back the cases to the Tribunal for appropriate orders for giving opportunities to both sides to lead further evidence, if they so desire, and for the decision of the cases in accordance with the law as declared now by this Court. The parties will bear their own costs throughout.

Appeals allowed.