

B. K. V. Radhamani Ammal

Vs

Authorised Officer, Land Reforms, Coimbatore

Civil Appeal No. 1117 of 1978

(CJI Y. V. Chandrachud, A. N. Sen JJ)

23.01.1985

JUDGMENT

Y. V. CHANDRACHUD, C.J. –

On July 11, 1955 one Balgopal executed a deed of settlement in favour of his unmarried daughter Jayakumari, giving her an absolute interest in an agricultural land measuring about 24 standard acres. On December 31, 1956 he executed a deed of settlement in favour of his wife Radhamani Ammal, giving a life estate to her in about 19 standard acres of agricultural land. The lands thus settled upon these two, the daughter and wife, was evidently the self-acquired property of the settlor. Balgopal died in 1957.

2. The Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 was not notified on October 2, 1962 but the date of commencement of the Act was April 6, 1960. Proceedings were taken under that Act for the purpose of determining the question as to whether the widow and daughter of Balgopal were in possession of any surplus land. By an order dated November 7, 1969, the Authorised Officer held that the lands in which the widow had a life estate and the lands settled upon the daughter had to be clubbed together since the widow and the daughter were members of the same 'family'. As a result of the clubbing of the two holdings, it was found that the family was in possession of 14 standard areas of surplus land. The order of the Authorised Officer was set aside by the Land Tribunal, Coimbatore, by an order dated April 28, 1972. It was held by the Tribunal that since the widow had a mere life estate in the lands settled upon her, she was not the 'owner' of these lands and, therefore, her holding could not be clubbed with that of her daughter.

3. Two other Acts were passed on the same subject to which it is necessary to refer. The first of these Acts is the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 17 of 1970. It reduced the ceiling area from 30 standard acres to 15 standard acres and provided that the date of commencement of the Principal Act, that is, the Act of 1961, shall be deemed to be February 15, 1970 and the notified date would be October 2, 1970. The other Act, namely, Act 39 of 1972 provided that the date of commencement of the Principal Act will be deemed to be March 1, 1972. After these Acts were passed, the Authorised Officer issued a fresh notice to Balgopal's widow as to why the land in which she had a life estate should not be included in the holding of the 'family' consisting of herself and her daughter. In that proceeding, an order was passed on March 16, 1973 to the effect that the family consisting of the widow and daughter was in possession of surplus land to the extent of about 14 standard acres. The appeal filed by the widow before the Tribunal as also the revision application filed by her in the High Court of Madras were dismissed. Being aggrieved by the judgment of the High Court dated November 3, 1976 in Civil Revision Petition No. 2772 of 1976, the widow has filed this appeal by special leave.

4. It is both understandable and unfortunate that the attention of the High Court and of the authorities below was not drawn to the provisions of the Tamil Nadu Act 17 of 1970. As stated earlier, according to that Act, the date of commencement of the Principal Act was to be deemed to be February 15, 1970 and the notify date was to be October 2, 1970. After the passing of that Act, the question as to whether the holding of the family was in excess of the ceiling area had to be decided in reference to the state of affairs as they existed on the notified date, that is to say, on October 2, 1970. Balgopal's daughter Jayakumari was married in May 1963, and therefore, the family of which she was at one time a member consisted solely of the widow on the notified date. It seems to us plain that, on this consideration, the land which was settled upon the daughter could not possibly be clubbed with the land which was settled upon the widow.

5. Section 3 of Act 17 of 1970 which contains a saving clause cannot avail the respondent. It provides by sub-section (1), to the extent material that any action taken under the Principal Act before the publication of the Act of 1970 may be enforced in accordance with the provisions of the Principal Act, as if the Act of 1970 had not been passed. This provision, instead of assisting the respondents, would rather support the case of the appellants since, in the original proceedings which were taken under the Principal Act, the final order passed by the Tribunal on April 28, 1972, was in favour of the appellant.

6. For these reasons, we allow this appeal and set aside the order of the High Court dated November 3, 1976 as also the orders passed by the authorities below. The notice issued by the Authorised Officer dated February 24, 1973, is quashed and the proceedings consequent thereto are set aside. No fresh or further proceedings shall be taken in regard to the same subject-matter.

7. The appellant will get her costs of the appeal from the respondent.

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