

M. Agagirisamy Pillai

Vs

Special Deputy Collector (Revenue Court), Tiruchirapalli

Civil Appeals Nos. 365 with 804 of 1982

(M. Fathima Beevi, S. C. Agrawal JJ

30.01.1992

JUDGMENT

1. The appellants are aggrieved by the judgment of the Madras High Court upholding the validity of Section 7 of the Tamil Nadu Cultivating Tenants (Protection from Eviction) Act, 1976 (Act 36 of 1976). This Act published in the Gazette dated 30th August, 1976, came into force on 16th day of January, 1975.

2. Section 7 of the Act provided that any cultivating tenant who had been evicted from any land on or after the 16th day of January, 1975 but before the date of the publication of this Act in the Tamil Nadu Government Gazette, on the ground that such cultivating tenant was in arrear with respect to the rent payable to the landlord shall, on application to the Revenue Divisional Officer within a period of three months after the date of such publication, be entitled to be restored to possession of such land and to hold it with all the rights and subject to all the liabilities of a cultivating tenant under the Tenants Protection Act. Under the proviso to Section 7, the application may be received after the period of three months as aforesaid but before the expiry of the Act, if the applicant satisfies the Revenue Divisional Officer that he had sufficient cause for not making the application within the said period of three months.

3. Some of the 'respondents, who were tenants, had been dispossessed in pursuance to the order of eviction after 16-1-1975 and before the publication of the Act. Their applications under Section 7 had been allowed. The appellant, therefore, filed writ petitions before the High Court challenging the validity of the enactment and the legality of the proceedings that followed.

4. The writ petitions were dismissed by the High Court following the decision of the Division Bench in connected Writ Appeals Nos. 117, 119, 120 and 121 of 1977 (Minor Gokula Krishnan v. State of Tamil Nadu) decided on 5-2-1980. This judgment in the writ appeals though challenged before this Court in Civil Appeals Nos. 1104-1106 of 1980 has become final, since the appeals have been either withdrawn or dismissed as not pressed.

5. In Minor Gokula Krishnan v. State of Tamil Nadu and connected cases, Section 4 of the Tamil Nadu Cultivating Tenants (Protection) Amendment Act, 1976 (Act 18 of 1976) containing identical provision was challenged on the grounds that State Legislature had no competence to enact the Act, and the impugned Act violated fundamental rights guaranteed under Arts. 14 and 19 of the Constitution. The writ petitions were dismissed holding that the impugned Act was within the legislative competence of Tamil Nadu Legislature and the Act had the protection under Art. 31A.

The decision was confirmed by a Division Bench in appeal. It was held that the legislation falls under Entry 18 of List II of the Seventh Schedule of the Constitution of India and Article 31(A) applied to the impugned legislation.

6. It had been urged before the High Court that Entry 18 applied only to legislation related to land or rights where the relationship of landlord and tenant subsists. Section 4 of Act 18 of 1976, it was argued, relates to a case where relationship of landlord and tenant had ceased to exist after the land has been taken possession of by the landlord and is, therefore, beyond the scope of Entry 18 and that the legislation is not entitled to the protection under Article 31-A. These arguments had been repelled finding that the entry has to be construed in its widest amplitude and so construed ancillary or subsidiary matter arising out of tenancy would be within the terms of the entry.

7. The legislation relates to the rights of persons who satisfy the status of tenant at the commencement of the Act. It cannot be disputed that the Act seeks to protect interest of cultivating tenants and that it is a measure of agrarian reform. The principal Act is included in the 9th Schedule of the Constitution as item 42.

8. In the present case the legislation is challenged on identical grounds. The impugned provisions in Act 36 of 1976 are identical to Section 4 of Act 18 of 1976 upheld by the Madras High Court. We have carefully considered the judgment of the Division Bench. We find no reason to differ from the reasoning and conclusions drawn in that case. The appellants' case is fully covered by that judgment. We are, therefore, of the view that the High Court was right in upholding the validity of the impugned provisions in Section 7 of the Tamil Nadu Cultivating Tenants (Protection from Eviction) Act (Act 36 of 1976).

9. The learned counsel for the appellants in Civil Appeal No. 804 of 1982 urged that even if the law is upheld as valid it has no application in his case. The appellant happens to be the purchaser from the landlord who took possession of the land on 18-8-1975, the purchase being on 11-1-1976. It is maintained that the provisions cannot be enforced as against a subsequent purchaser and even if it could be applied, the appellant had been impleaded in the proceedings only after the expiry of a period of three months of the publication of the Act, and, therefore, the proceedings as against him could not be sustained. We are not impressed by this argument.

10. When an application under Section 7 is dealt with, the status of the applicant as on the date of commencement of the Act i.e. on 16-1-1975, has to be considered for the purpose of determining his rights. The impleadment of the subsequent purchasers is only in compliance with the principles of natural justice. The proviso to Section 7 empowers the authority to entertain the application even after the expiry of period of three months where sufficient cause is shown. It may be that the subsequent transfer had come within the knowledge of the applicant only after the three months period expired, and when the application for impleading has been allowed it has to be inferred that the delay, if any, had been condoned. Therefore, we reject the argument advanced by the appellants' learned counsel. We find no merit in the appeals are accordingly dismissed. In the circumstances, there will be no order as to costs. Appeals dismissed.

</html