

Deputy Collector, Minicoy and Others

Vs

Navadigothi Mohammed and Others

Civil Appeals Nos. 11907-10 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

11.09.1996

JUDGMENT

PATTANAİK, J. –

1. Leave granted.

2. These appeals by special leave are directed against the judgment of the Division Bench of the Kerala High Court dated 8-2-1984 in Writ Appeal No. 525 of 1981 and batch. Notices were issued under the Lakshadweep Land Revenue and Tenancy (Allotment of Pandaram Land) Rules, 1979 (hereinafter referred to as "the Rules") and challenging those notices the respondents herein filed writ applications. The learned Single Judge dismissed the writ applications. In appeal the Division Bench of the High Court by the impugned judgment quashed notices issued and allowed the writ appeals filed and thus these appeals by special leave.

3. The case of the appellants is that South Pandaram lands are the government lands. Before the Minicoy Island came under the British Rule the Raja of Cannanore was enjoying the usufruct of the coconut trees standing on the South Pandaram lands. The inhabitants of the Islands were getting some mamul for collecting and stacking the coconuts. After the British Rule the inhabitants of the Islands continued to collect the coconuts from the trees and for that purpose they are getting some remuneration in kind but at no point of time they had any right to the trees or the land on which the trees stood. Sometime prior to 1942 the Government evolved a scheme conferring rights on the inhabitants of the Island to collect and enjoy the fruits from the coconut trees. After India became independent when Five Year Plan was implemented, on the representation of the people of Minicoy a new scheme was proposed and under that scheme the inhabitants were permitted not only to collect the coconuts falling from the trees but also to pluck the nuts from the trees itself. And after this right was conferred as a collective right in favour of the inhabitants through their Mooppans, the Mooppan thus as a trustee for all the villagers had the right to enjoy usufruct of the coconut trees for himself as well as for all the villagers together and the Mooppan was distributing the coconuts amongst the villagers. While the Mooppans continued to enjoy usufruct of the coconut trees for themselves as well as for the villagers, gradually a demand for abolition of Mooppans' system began. The administration considering the grievances of the villagers finally thought of granting separate plots of land individually to the inhabitants and ultimately Laccadive, Minicoy and Amindivi Islands Revenue and Tenancy Regulation, 1965 (hereinafter referred to as "the Regulation") was promulgated under Article 240 of the Constitution of India. The administrator thereafter framed Rules in exercise of power conferred under Section 121 of the Regulation. It is the further case of the appellants that the people of Minicoy Island never had any vested right on the land on which the coconut trees stood though they were enjoying the right of collection of yield of

the coconut trees standing on the South Pandaram land and therefore they cannot be held to have acquired right of occupancy. In accordance with the Rules framed under the Regulation notices having been issued by the appropriate authority for allotting different parts of South Pandaram land to different persons, writ applications came to be filed by the respondents herein contending inter alia that they have acquired right of occupancy being in occupation of South Pandaram lands prior to the Regulation coming into force and therefore the notices issued under the Rules would deprive them of their right of occupancy. The learned Single Judge on consideration of the relevant provisions of the Regulation and the rights enjoyed by the Mooppans in respect of the usufruct of the coconut trees came to hold that no right of occupancy accrued in favour of the Mooppans under Sections 83 and 84 of the Regulation. It was also further found that the Mooppans as well as the inhabitants of the Island merely enjoyed a right of plucking coconuts from the trees without having any right over the land or the trees itself and therefore they cannot be held to be in occupation of the land in question and their claim of right of occupancy is unsustainable. With these findings the writ applications having been dismissed, the respondents preferred appeals to the Division Bench. The Division Bench by the impugned judgment came to hold that the Mooppans were in occupation of the Pandaram lands at the commencement of the Regulation on behalf of the inhabitants of the village and therefore they are entitled to their claim of right of occupancy over the land in question. The notices issued by the appropriate authority under the 1979 Rules can only be applicable in respect of fresh lands and will not divest the persons who have already acquired right of occupancy. Accordingly, the Division Bench allowed the writ appeals and hence these appeals by special leave.

4. Mr Chowdhary, the learned Senior Counsel appearing for the appellants, contended that in view of the limited right of collection of coconuts from the trees conferred upon the Mooppans and the inhabitants of the village without any right over the land on which the trees stood, the Division Bench of the High Court was wholly in error to hold that they were in occupation of the land prior to the Regulation coming into force. He further contended that the Mooppan of the village had been conferred certain privileges as he was representing the interest of the village community at large. The Mooppans were acting as trustees but as complaints were received from several villagers the Government decided to confer individual rights on the inhabitants under the Regulation and therefore there is no infirmity with the notices issued. Mr Nambiar, the learned Senior Counsel appearing for the respondents, on the other hand, contended that the Lakshadweep group of Islands have its own peculiar concept of rights and the Mooppans were merely representing the entire village community. There was total unity of enjoyment and the Mooppans and the villagers had absolute right over the coconut trees and therefore the Division Bench rightly held that they held the right of occupancy which right can't be taken away by the Regulation or the Rules framed thereunder.

5. In view of the rival submissions at the Bar the question that arises for consideration is whether the Division Bench of the High Court was right in its conclusion that the Mooppans and the villagers can be said to have acquired the right of occupancy over the land on which the coconut trees stood prior to the Regulation coming into force ? If it is held that right of occupancy had accrued in their favour then that right cannot be taken away by the administration in exercise of its power under the Regulation and Rules framed thereunder. But on examination of the materials on record and the history of the bundle of rights which the inhabitants of these Islands were enjoying, it is crystal clear that there was no demarcation of any individual property. The villagers through their Mooppans were initially getting some remuneration for collecting and stacking coconuts. In course of time they got the right to pluck coconuts from the trees but no specific individual had any specific right over any specific tree and it was a case of collective right of collection and enjoyment of the fruits through their Mooppans. Mooppan was acting as the trustee and was equally distributing the

usufruct of the coconut trees. At no point of time either the Mooppans or any individual villager had an iota of right over the land or the coconut trees standing thereon. This being the position, it is difficult to accept the conclusion of the Division Bench of the High Court that the respondents had acquired a right of occupancy prior to the Regulation coming into force. Further the so-called collective rights which were being exercised by the Mooppans on behalf of the villagers as trustees were complained of when the Mooppans started arbitrarily exercising their power. After due enquiry the Government decided to confer right of occupancy over specific parts of land in favour of each individual in accordance with the Regulation and the Rules framed thereunder. We see no infirmity with the Regulation as well as the Rules framed thereunder and it has been so framed in exercise of the power conferred under Article 240 of the Constitution for the peace, progress and good government of the Lakshadweep group of Islands. The Regulation and the Rules subserve the purpose for which power has been conferred on the President under Article 240 of the Constitution and the Regulation and the Rules would achieve the object of allotting specific parts of the land in favour of each individual, so that, the Mooppans will not be able to exploit the individuals.

6. In view of our aforesaid conclusion we have no hesitation to hold that the Division Bench of the High Court was wholly in error in granting right of occupancy in favour of the respondents and in quashing the impugned notices issued by the administrator in exercise of his power under the Regulation and the Rules framed thereunder. Appeals are accordingly allowed. The judgment of the Division Bench of the High Court in Writ Appeal No. 525 of 1981 and batch is set aside. Writ applications filed by the respondents stand dismissed. There will be no order as to costs.