Kancherla Madhusudhana Rao

Vs

State of Andhra Pradesh

Special Leave Petition (C) No. 14890 of 1999

(Mr. M. Jagannadha Rao and Mr. Doraiswamy Raju, JJ.)

24.07.2000

ORDER

This is a Special Leave Petition directed against the judgment of the Andhra Pradesh High Court in CRP 793 of 1995 dated 23.6.1999.

The matter relates to interpretation of Section 4A of the A.P. Land Reforms Ceiling on Agricultural Holding Act, 1973. The petitioner before us is the landholder who claims that he need not surrender the excess land in his possession inasmuch as he is a major son and his mother is owning less than a family holding and because the deficiency in her holding is more than the excess in the petitioner's holding.

Section 4A of the Act reads as follows:

"Notwithstanding anything in Section 4, where an individual or an individual who is a member of a family unit, has one or more major sons any such major son either by himself or together with other members of the family unit of which he is a member holds no land or holds an extent of land less than the ceiling area, then, the ceiling area, in the case of the said individual or the family unit of which the said individual is a member computed in accordance with Section 4, shall be increased in respect of each such major son by an extent of land equal to the ceiling area applicable to such major son or the family unit of which he is a member, or as the case may be, by the extent of land by which the land held by such major son or the family unit of which he is a member falls short of the ceiling area".

The above section was incorporated by the A.P. Amending Act x of 1977. The Statement of, Objects and Reasons appended to the Bill read as follows:

"According to the definition of `family unit' under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (Act 1 of 1973), major sons and major daughters are not to be members of the family unit but aer treated as separate individuals. Consequently, if a major son owns land either as a separate property or as a sharer in the joint family, the ceiling limit is applied to such land, and it is not taken into account for applying the ceiling limit of the father's family. Representations have been received that the implementation of the Act results in hardship to Muslims and Christians since these communities do not have the system of joint families and even major sons in these communities do not have a share in the ancestral property during the life time of the father unlike in the case of joint Hindu families. It has, therefore, been decided to make suitable amendment to the Act to remove this hardship and equalise the includence of the Act on all communities irrespective of their personal laws".

In our view, the the effect of Section 4A is as follows. If the extent of land owned by the members of a family unit (i.e. the declarant, his or her spouse and minor children) exceeds the ceiling area, in case the declarant has a major son on the notified date i.e. 1.1.1975,, then-in case the major son does not own any 'agricultural land-the family unit of his parent (the declarant) shall be entitled to the benefit of an additional unit of ceiling area. In case the major son owns land, within the ceiling area, but upto a limit (say) 0.40 units, then the family unit of his parent (declarant) shall have the benefit of an extra 0.60 unit of ceiling area. Broadly, this is the manner in which the provisions of Section 4A work out.

But the petitioner before us is not the parent but the major son. He is seeking to apply the section in the reverse fashion as was held permissible in S. Pandya vs. State of Andhra Pradesh (1979 (1) APLJ 9). That case no doubt supports the petitioner. There the family unit of the parent did not own excess land, but the major son had excess land. The learned judge interpreted Section 4A as applicable to such a case and held that inasmuch as the excess of the major son was less than the deficiency of the parent, the major son need not surrender his excess land.

But the above judgment of the learned Single Judge was overruled in P.K.R. Raju vs. State of Andhra Pradesh (1980 (1) APLJ 307). The Division Bench explained section 4A (at p.310) as follows:

"In our view, it is quite manifest from the content of the Section extracted supra that the Legislature positively conferred the benefit on the individual who is a parent and the increase irresistibly is in the holding of the parent, should there be any deficit in the holding of the major son".

The bench also observed that so far as the converse case is concerned (i.e. where the major son has excess and the parent's family unit is not in excess), it is not covered by section 4A and observed as follows:

"It is only the converse case that is conspicuous not only from the content of the Section but also from the object with which it has been enacted."

In Pandya's case decided by the learned Single Judge, it was found that the family unit of the major son had an excess 0.2668 family holding and it was held that he need not surrender the excess because his mother's family unit had a deficiency of more than 0.2668. This method of computation was not accepted by the Division Bench in P.K.R. Raju's case as not falling within the content of section 4A.

In our view, the decision of the Division Bench in P.K.R. Raju's case is correct and the decision of the learned Single Judge in Pandya's case was rightly overruled.

In the present order, the High Court applied the judgment of the Division Bench and held that the declarant, the major son, who is in excess cannot refuse to surrender the excess land and that he cannot set off his excess against the deficiency in the holding of his mother. We, therefore, do not find any error in the judgment of the High Court.

The special leave petition is dismissed.