

KERALA HIGH COURT

Amunni Nair

Vs

State of Kerala

(A Lakshmanan, C.J. K Sankaranarayanan, J.)

10.03.1976

JUDGEMENT

A Lakshmanan, C.J.

- (1.) THE main question that arises for determination in these civil revision petitions is the interpretation to be placed on the words "commencement of this Act" occurring in sub-section (4) of S. 82 of the Kerala Land Reforms Act, 1963 (hereinafter referred to as the Act). Sub-section (4) of S. 82 was amended twice after it was enacted by the Act and after it came into operation on 1-4-1964. We shall extract the above section as it stood between the period 1-4-1961 and 1-1-1970 and the term of the section between 1-1-1970 and the date on which Act 25 of 1971 came into force, and as it was worded after passing Act 25 of 1971. S. 82 (4) as it stood between the period 1-4-1964 and 1-1-1970 was in these terms: "82. Ceiling area (4) Where, after the commencement of this Act, any class of land specified in Schedule II has been converted into any other class of land specified therein, the extent of land that may be owned or held by a family or adult unmarried person owning or holding such land at the time of the conversion shall be determined without taking into account such conversion. "

(2.) S . 82 (4) as it was between 111970 and 1181971 was in these terms: 1182 (4) Where, after the commencement of this Act, any class of land specified in Schedule II has been converted into any other class of land specified therein, the extent of land that may be owned or held by a person owning or holding such land at the time of the conversion shall be determined without taking into account such conversion. " After the passing of Act 25 of 1971 the S. 82 (4) read thus. 1182 (4) Where, after the commencement of this Act, any class of land specified in Schedule II has been converted into any other class of land specified in that Schedule or into a plantation, the extent of land liable to be surrendered by a person owning or holding such land shall be determined without taking into consideration such conversion. " We must add a word of explanation. Act 25 of 1971 brought into force retrospectively sub-S. (4) of S. 82 as it stands today with effect from 1-1-1970. It is therefore unnecessary to read the provision that stood in the statute book from 1-1-1970 to the date on which Act 25 of 1971 was passed because the present

section has been substituted with effect from 1-1-1970.

(3.) WE must also refer to the terms of Schedule II which is referred to in the sub-section as obtaining during the respective periods. Before Act 35 of 1969 amended sub-section (4) of S. 82 the Second Schedule to the Act took in among the classes of lands specified therein all types of plantations; but by the amendments introduced by Act 35 of 1969 to the Second schedule plantations were left out from the Second Schedule. It has to be noticed that this has got significance in view of the wording of sub-section (4) of S. 82 as it was enacted by Act 35 of 1969 In the section the words " any class of land specified in Schedule II has been converted into any other class of land specified therein "were used without adverting to the fact that schedule II had also been amended by Act 35 of 1969 by omitting the classes of lands described as plantations in the original schedule. This appears to have been a mistake and therefore when the present sub-section (4) of S. 82 of the Act was introduced by Act 25 of 1971 the wording of the sub-section has been changed in this regard and it is stated "any class of land specified in schedule H has been converted into any other class of land specified in that schedule or into a plantation". This sub-section as we said, had been introduced with effect from 1-1-1970 and therefore we need only consider the sub-section as it stood before 1-1-1970, and as it stands today. ;