IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. 1592 of 1969

N. Ramakrishnan .. Appellant

Vs.

State of Madras .. Respondent

JUDGMENT

VENKATARAMAN. J.

This appeal by Special leave is filed against the order dated March 12, 1969 passed in Civil Revision Petition No.1791 of 1967 on the file of the High Court of Madras.

On the date of the commencement of Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (hereinafter referred to as 'the act'), i.e., April 6, 1969, the appellant owned approximately 47 acres of agricultural lands. He was required to file a statement under Section 8 of the Act within 90 days from the date specified in the Notification issued by the Government in that behalf in respect of all lands held or deemed to have been held by him furnishing the particulars mentioned in that provision to the Authorised Officer within whose jurisdiction his holding or major part thereof was situated. Accordingly, he filed his return. In the course of the enquiry, the Authorised Officer found that under a will made by Sivagami Achi, the mother of the appellant, who died on April 20, 1962, the appellant became entitled to 4.99 std. acres and his wife, Devika got 8.81 std. acres of agricultural land. The Authorised Officer after ascertaining the true extents of the several bits of agricultural land held by the appellant on April 6, 1960, exempted 2.21 acres of land under Section 73 of the Act and determined the extent of surplus land which had to be surrendered by the appellant under the Act at 12.803 std. acres on the basis that the appellant family which included his wife was holding 44.46 acres as also the land which the appellant and his wife got under the will of Sivagami Achi. On the above basis, he directed the final statement to be published under Section 12 of Act. Aggrieved by the order of the Authorised Officer, the appellant filed an appeal before the Land Tribunal, i.e. the subordinate Judge of Thanjavur and Section 78 of the Act contending inter alia that the extent of 8.81 std. acres

which had been bequesthed in favour of his wife, Devika by his mother Sivagami Achi under the will referred to above was Stridhana land and had to be dealt with accordingly as required by Section 5(4)(a) of the Act. The learned Subordinate Judge accepted the case of the appellant that the extent of 8.81 std. acres acquired by Devika on the death of Sivagami Achi should be allowed to be retained by her in addition to 39 std. acres. The case was, however, remitted back to the Authorised Officer for making a fresh determination of the surplus extent of land in accordance with the order passed in appeal. The state of Tamil Nadu filed a revision petition under Section 83 of the Act before the High Court against the appellate order. The High Court allowed the revision petition holding that the extent of 8.81 std. acres acquired by Devika was not 'Stridhana land' as defined under Section 3(42) of the Act and could not be treated as such while determining the surplus land. The High Court further held that the land acquired by Devika was governed by Section 21(1) read with Section 10(2)(b) of the Act. This appeal is filed against the said order. In order to appreciate the submissions made on behalf of the parties before us, it is necessary to refer briefly to some of the provisions of the Act. The Act was passed to provide for the fixation of ceiling on agricultural Land Holdings and for certain other matters connected therewith in the State of Tamil Nadu. Having regard to the limited extent of the area of agricultural land available for cultivation in that State, the great disparity in the ownership of agricultural land leading to the concentration of such land in the hand of certain persons, the need for reduction of such disparity in the ownership of agricultural land in that State and the necessity for fixing a ceiling on the agricultural land holdings, provisions were enacted in the act fixing a ceiling on the agricultural land holdings and providing for acquisition of agricultural land in excess of the ceiling area and distribution of such land amongst the landless and other persons among the rural population.

Section 3(11) of the Act defined the expression "date of commencement of this Act" as the date of which the Tamil Nad Land Reforms (Fixation of Ceiling on Land) Bill, 1960 was published in the Fort St. George Gazette, namely the 6th day of April 1960.

Section 3(34) of the Act defined the expression 'persons' as including any trust, company, family, firm, society or association of individuals whether incorporated or not.

Verified © RealEstate

Under Section 3(14) of the Act, 'family' in relation to a person meant the person, the wife or husband as the case may be, of such persons and his or her monor sons and unmarried daughters and minor grandsons and unmarried grand daughters in the male line, whose father and mother were dead.

Section 3(7) of the Act defined 'Ceiling area' as the extent of land which a person was entitled to hold under Section 5.

Section 3(42) of the Act defined 'Stridhana land' as any land held on the date of the commencement of the Act by way female member of a family in her own name.

During the period in question, the relevant part of Section 5 of the Act read as follows:—

*5 (1)(a) Subject to the provisions of Chapter VIII the ceiling area in the case of ever person and subject to the provisions of sub-section (4) and (5) and of Chapter VIII, the ceiling area in the case of every family consisting of not more than five members, shall be 30 std. acres.

4(a) Subject to the provisions of sub-section (5) where the stridhana land held by any female member of a family together with other land held by all the members of that family, is in excess of 30 std. acres the female member concerned may hold in addition to the extent of land which the family is entitled to hold under sub-section (1) Stridhana land not exceeding 10 standard acres ....

Section 7 of the Act read as follows:—

7. On and from the date of the commencement of this Act no person shall, except as otherwise provided in this Act but subject to the provisions of Chapter VIII be entitled to hold land in excess of the ceiling area.

Provided that in calculating the total extent of land held by any person, any extent in excess of the Ceiling area and not exceeding half an acre in the case of wet land and one acre in the case of dry land shall, irrespective of the assessment of such land, be excluded..

Verified © RedEstate™

Section 21 of the Act read as follows:—

"21. Ceiling on future acquisition by inheritance, bequest or by sale in execution of decrees, etc.

(1) If, on or after the date of the commencement of this Act.

(2) Any person acquires by inheritence or bequest from any present land, which, together with land, if any, already held by him, exceeds in the aggregate the ceiling area, then he shall, within ninety days from the notified date from the date of such acquisition, whichever is later, furnish to the authorised officer within whose jurisdiction his holdings or the major part thereof is situtated, a return containing the following particulars, namely.

The lands which were bequeathed by Sivagami Achi, the mother of the appellant under a will were held by her on the date of the commencement of the Act, i.e. April 6, 1960. The appellant married Devika on June 29, 1960. Sivagami Achi died on April 20, 1962 and on her death, the appellant and Devika became entitled to the lands bequeathed in their favour by her. The draft statement relating to the holding of the appellant was published on May 30, 1965 and the Authorised Officer passed his order on March 14, 1966 treating the lands bequeathed by Sivagami Achi in favour of the appellant and his wife as part of the holding of the family consisting of the appellant and his wife. The case of the appellant before the Authorised Officer, the subordinate Judge and the High Court was that in view of Section 5(4)(a) of the Act, the ceiling area should have been fixed in his case at 30 std. acreas plus the extent of land bequeathed in favour of his wife, i.e. 8.81 std. acres. In this court also, the very some contentions is urged. We are of the view that there is no substance in the contentions.

The expression 'Stridhana land' used in Section 5(4)(a) has been given restricted meaning by Section 3(42) of the Act which defines it as any land held on the date of the commencement of the Act by any female member of a family in her own name. Admittedly on the date of the commencement of the Act, i.e. April 6, 1960, Devika was not the owner of the land in question. She acquired title to it only on April 20, 1962 on the death of the testatrik. The appellant cannot, therefore, claim any benefit under Section 5(4)(a) of the Act.

Verified © RedEstate ™

Section 21 of the Act under which the land in question becomes liable to be included in the holding of the appellant for purposes of determination of the surplus lands does not make any difference between stridhana property of a female acquired after the commencement of the act by inheritance or bequest from any person and any other property held by her family. From reading of the definition of the expression 'Stridhana land' in Section 3(42) of the Act and the provision of Section 5(4) of the Act, we are of opinion that the State Legislature intended to extent the concession available under Section 5(4) of the Act only to the Stridhana property held by a female on the date of the commencement of the Act and not to property acquired by her thereafter.

It was urged by Mr.K. Jayaram, learned Counsel for the appellant that the Act was an expropriatory one and therefore, we should construe Section 5(4)(a) of the Act as being applicable to agricultural land acquired by a female even after the commencement of the Act. We do not think that there is any room for construing the said provision in the way. The object of the legislation as mentioned earlier was to acquire agricultural land in excess of the ceiling area from the holders thereof and to distribute the same amongst the landless among the rural population. If the construction urged by the appellant is placed on Section 21 of the Act, the very object of the statute would be defeated. If really the Legislature intended that lands acquired by way of inheritance or bequest by a female on or after the commencement of the Act should also be dealt with in accordance with Section 5(4). It would have defined the expression 'Stridhana Land' without the words on the date of the commencement of this Act. It has also to be borne in mind that the expression 'Stridhana' is not used in the Act in the sense in which it is used in Hindu Law. The Act is applicable to Hindus as well as others governed by other personal laws. It is, therefore, reasonable to construct the expression 'Stridhana Land' referred only to the land held by a female on the date of commencement of the Act and not to lands inherited by her or acquired by her as bequests at any subsequent point of time.

The learned Counsel for the appellant relied on the decision of the High Court of Madras in Valliammal V. The Authorised Officer, Land Reforms, Coimbatore (AIR.1973 Mad 321) in which a contention similar to the one urged before us on behalf of the appellant in

this case had been accepted. The facts of that case were more or less similar to the facts in the case before us. The petitioner in that case was the wife of one Palanisami Gounder, who was in possession of an extent of 44.061 std. acres, after excluding the exempted lands on the commencement of the Act. The inherited 11.075 std. acres on the death of her son on March 25, 1962. In the return filed by him, the husband of the petitioner claimed that he was entitled to retain 30 std. acres as holdings of the family and that his wife, the petitioner in that case, was entitled to hold 10 std. acres as Stridhana property. The Land Tribunal, Coimbatore held that since the Act defined 'Stridhana Land' as meaning any land held on the date of the commencement of the Act by any female member of the family in her own name and since the petitioner therein had inherited the land on the death of her son only on March 25, 1962, i.e. subsequent to the commencement of the Act, she was not entitled to retain any land as Stridhana property in addition to the extent of land which the family could retain under Section 5(1). The petitioner questioned the correctness of the order of the Tribunal before the High Court of Madras in C.R.P. No.916 of 1971. That petition was dismissed by Ganesan J on the ground that in view of the definition of Stridhana land in Section 3(42) of the Act, the petitioner therein was not entitled to held 10 std. acres as Stridhana property. In addition to the 30 std. acres allowed to the family consisting of herself and her husband. Thereafter a petition was filed before the High Court by the petitioner therein to review the order passed by Ganesan J. The review petition came up for davision before another learned Judge who allowed the same by his order dated November 2, 1972. It is on the decision rendered on the review petition the reliance is placed by the appellant before us. In paragraph 6 of that decision, it is as follows:—

> The learned judge, who heard the civil revision petition mainly relied on the definition of 'Stridhana property' for holding that no woman is entitled to hold any stridhana property if the same was acquired or inherited subsequent to the commencement of the Act. Of course, Section 3(42) defines stridhana land as meaning any land held on the date of commencement of the Act by any female member of a family in her own name. But that meaning is to be adopted 'unless the context otherwise required'. It has

Verified © RedEstate™

been repeatedly held that the word in the section will have to be interpreted and understood in the context in which it is used in the section and difinition given for that word in the definition section of the Act could not always govern the interpretation without reference to the context. In the context of Section 5,7 and 21 and with reference to the scope and object of the Act. I am of opinion that the properties inherited by females as stridhana property subsequent to the commencement of the Act are also entitled to the benefit of sub-section (4) of Section 5 of the Act.

It is true that the above passage supports the case of the appellant but we are of the view that in the context of Section 21 of the Act and it is not necessary to give a meaning to the expression 'Stridhana Land' differ from what is stated in Section 3(42) of the Act. For the reasons already stated by us we hold that the aforesaid decision does not lay down the law correctly. It is also to be observed that the earlier decision of the High Court of Madras which is now under appeal does not appear to have been brought to the notice of the learned Judge who decided the above case.

We, therefore, hold that the High Court was right in this case in holding that section 5(4) of the Act was not applicable to the land in question.

It was lastly urged by Mr.K. Jayaram that in view of certain subsequent amendments made to the Act, the case has to be examined afresh by us in the light of the amended law. We do not think that it is advisable to do so at this stage. It is open to the appellant if he is so advised to resort to appropriate proceedings in order to claim the benefit that he may be entitled to under the amended law. Liberty is also reserved to the State Government to take whatever action it may take under the subsequent amendments to the Act.

In the result, this appeal fails and is dismissed with costs.

/(Sd.) A.V. GUPTA/

/True Copy/

Verified © RedEstate™