

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Tuesday the Seventeenth day of January
One thousand nine hundred and seventy eight

Present: The Honourable Mr. Justice - SURYAMURTHY

Civil Revision Petition Number 2013 of 1975.

S.T. Kannabiran .. Petitioner
(Appellant Transferer)

Vs.

Authorised Officer, .. Respondent (Respondent)
Land Reforms,
Grey Town, Coimbatore.

Petition under section 115 of Act V of 1908 read with section 83 of the Tamil Nadu Act 58/61 amended by Act 17/70 praying the High Court to revise the order of the Court of the Land Tribunal (Prl. Sub-Judge), Coimbatore dated 1st July 1975 and made in L.T.A. No.731 of 1974. (Ref. No.27K/MRI(B) 17/70 - Authorised Officer (L.Ref.) Coimbatore).

ORDER: This petition coming on for hearing on Monday, the 16th day of January 1978 and on this day upon perusing the petition, the order of the Lower Court and the record in the case and upon hearing the arguments of Mr. G.M. Nathan, Advocate for the petitioner and of Mr. Sivaji for the Additional Government Pleader on behalf of the Respondent, the Court made the following order:-

This is a civil revision petition against the judgment of the Land Tribunal (Principal Subordinate Judge, Coimbatore) in appeal No.731 of 1974 confirming an order of the Authorised Officer (Land Reforms), Coimbatore declaring that the transfer of an extent of 7.56 acres in S.No.709/1 and 0.31 acres in S.No.709/3 effected by one S.D. Kannabiran under a deed of gift dated 13th September 1970 in favour of his wife in lieu of her maintenance is a void transaction as the intention of the transfer was to reduce his holdings.

The point for determination is whether the said transfer is void.

Section 22 of the Tamil Nadu Land Reforms Act which empowers the Authorised Officer concerned to declare that the transfer or partition of any holdings or part thereof is void also lays down that he can do so only if he finds that the transfer or partition defeats any of the provisions of the Tamil Nadu Land Reforms Act (to be referred to

hereinafter as the Act). In the instant case, the husband has transferred the aforesaid extent of land in favour of his wife. But this transfer has not the effect of defeating any of the provisions of the Act and therefore the notice of the donor in executing the gift deed is irrelevant.

By reason of Section 5(1) of the Act, a family consisting of not more than 5 members is entitled to 15 standard acres subject to the provisions of sub-section 3A, 3B and 3C and of Chapter-8. The family is defined in section 3(14) as the wife or husband, as the case may be, of such person and his or her minor sons and unmarried daughters, etc. Therefore, in computing the ceiling limit in the case of the family consisting of Kannabiran, the donar and Muthanna Rajeswari, his wife, the lands transferred to Muthanna Rajeswari by way of gift also will have to be included in the holdings of the family and the ceiling limit of 15 standard acres will have to be fixed on the basis that the properties owned by Kannabiran as well as the properties owned by his wife Muthanna Rajeswari belong to the family. Hence, the settlement deed dated 13th September 1970 executed by Kannabiran in favour of his wife Muthanna Rajeswari does not defeat any of the provisions of the Act and therefore the provision of Section 22 of the Act are not attracted to the instant case. Hence, the judgment of the learned Land Tribunal and the order of the Authorised Officer are set aside and the settlement deed dated 13th September 1970 executed by Kannabiran in favour of his wife Muthanna Rajeswari is held to be valid. However, it is made clear that the lands transferred by Kannabiran under the deed dated 13th September 1970 in favour of his wife Muthanna Rajeswari shall be treated as the properties of the family of the purpose of fixing the ceiling under section 5(1)(a) of the Act. The Civil revision petition is consequently allowed. No costs.

Sd/- C.R. GOPALAKRISHNAN,
Assistant Registrar.

(True copy)