

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Thursday the Seventh day of July,
One thousand nine hundred and seventy seven

Present: The Honourable Mr. Justice - ISMAIL

Civil Revision Petition No. 2033 of 1974.

N.V.M. Viswanatha Chettiar .. Petitioner (Appellant)

Vs.

1. The Authorised Officer,
Land Reforms, Kancheepuram
2. A. Sundaresa Chettiar
3. Ananda Padmanabhan (Minor) .. Respondents (Respondents)
by father and guardian
M.A. Arumugham Chettiar.

Petition under section 83 of Tamil Nadu Land Reforms (Fixation of Ceiling on Land Act, 58/61 read with Act 17/70 and section 115 C.P.C. praying the High Court to revise the order of the Land Tribunal (Sub-Court), Chingleput dated 3rd April 1974 and made in C.M.A. No.96 of 1973 (V.47/K.P.M., M.R.I. Authorised Officer (Land Reforms), Kancheepuram.

ORDER: This petition coming on for hearing on this day upon perusing the petition the order of the Lower Court and the records in the case and upon hearing the arguments of Mr. S. Sundaravaradan, Advocate for the petitioner and of the Additional Government Pleader on behalf of the First Respondent and Mr. S. Govindasamy, Advocate for Respondents 2 and 3 the Court made the following order:-

In this case, the Authorised Officer, Land Reforms, Kancheepuram, by his order dated 30th November 1973, declared that the two settlements effected by the petitioner herein in favour of the two sons of his brothers under settlement deed dated 27th August 1970 (registered on 4th December 1970) one settlement deed covering an extent of 1.64 standard acres and another settlement deed covering an extent of 1.70 standard acres, are void under section 22 of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. The petitioner's appeal to the learned principal subordinate Judge, Chingleput as Land Tribunal, failed, and hence the present Civil Revision petition by the owner of the land.

Section 22 of the Tamil Nadu Land Reforms (Fixation of Ceiling on

Land), Act, 1961, reads as follows:-

"Where, on or after the date of the commencement of this Act but before the notified date, any person has transferred any land held by him by sale, (other than gift made in contemplation of death) exchange, surrender settlement or in any other manner whatsoever except by bequest or has effected a partition of his holding or part thereof, the Authorised Officer within whose jurisdiction such land, holding or the major part thereof is situated may, after notice to such person and other persons affected by such transfer or partition and after such enquiry as he thinks fit to make, declare the transfer or partition, to be void if he finds that the transfer or the partition as the case may be, defeats any of the provisions of this Act".

It is not disputed that the two settlement deeds concerned in the present civil revision petition were brought into existence after the date of the commencement of the Act. viz., 15th February 1970 and before the notified date viz. 2nd October 1970.

The only contention put forward by the learned counsel for the petitioner is based upon the judgment of Ramanujam J. in S. Naganatha Iyyar and others Vs. the Authorised Officer, Thanjavur and others (1) 1971 I.M.L.J. 274. The learned counsel for the petitioner contends that the learned judge in that decision has held that the intention of the parties entering into the transaction cannot be said to be immaterial for the application of Section 22 of the Act and that if the transaction is true and bonafide, even if they have the effect of defeating the provisions of the Act, they should not be declared invalid. According to the learned counsel, Ramanujam J. decided that the section applies only to sham, nominal or bogus transactions and not to real transactions. In this particular case, the Authorised Officer has recorded his finding as follows:-

"In these circumstances, I am of opinion that the Land owner was not really having the intention to settle the properties to his brother's sons. He has not explained the reasons for the gap of one year to write the document and to register them after 2nd October 1970. Therefore, I hold that the settlements effected to Thiru A. Sundaresa Chettiar and Thiru A. Anandapadmanabhan are not genuine non-bonafide and a sham transaction and that they are created with a view to defeat the provisions of the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 17/70 and declare that the said transactions are void under section 22 of the Act".

The Tribunal after referring to the contentions of the petitioner as well as the evidence stated:-

"None of the arguments advanced by the learned counsel for the appellant is acceptable because there is no acceptable material as satisfactory evidence to hold that the said two settlement deeds in favour of respondents 2 and 3 were given effect to on 2nd June 1969. There is no material to hold that they are bonafide transactions. Hence, I find no reasons to interfere with the conclusion reached by the learned Authorised Officer, regarding the two settlement deeds concerned in this appeal".

Even accepting the validity of the argument of the learned counsel as a legal submission still in this case, the Authorised Officer as well as the Land Tribunal have concurrently found that the transactions were not bonafide transactions. In view of this, the Authorised Officer and the Land Tribunal were fully justified in declaring the settlement deeds in question as void.

Consequently, the Civil revision petition is dismissed. But there will no order as to costs.

(True copy)