

Al. Vr. St. Veerappa Chettiar vs State Of Madras And Anr. on 5 February, 1954

Equivalent citations: AIR1954SC605, AIR 1954 SUPREME COURT 605

Author: B.K. Mukherjea

Bench: Chief Justice, B.K. Mukherjea, Ghulam Hasan

JUDGMENT

B.K. Mukherjea, J.

1. This is a consolidated appeal directed against a judgment of a Division Bench of the Madras High Court dated the 13th December 1951, by which three writ petitions filed by the appellant under Article 226 of the Constitution were dismissed. The appellant is the holder of a zemindary estate situated in Mathurai district; he also holds an under-tenure in the district of Ramanathapuram -- both within the State of Madras. After the passing of the Madras Estates (Abolition and Conversion into Ryotwari) Act of 1948, the under-tenure of the appellant was notified by the State of Madras under the provision of that Act on 23rd August 1949. A similar notification was made in respect of the zemindary estate on 9th of December 1950.

The three applications referred to above were presented by the appellant under Article 226 of the Constitution for the issue of appropriate writs against the State of Madras forbidding the latter from taking proceedings under the Madras Estates Act of 1948 in respect of the zemindary estate as also the under-tenure belonging to the appellant and for quashing the proceedings already taken. All the three applications were disposed of by one and the same judgment by the Madras High Court on 13th of December 1951 and the applications were dismissed. The petitioner has now come up in appeal to this court.

2. In our opinion, this appeal is concluded by our decision in -- 'Zamindar of Ettayapuram v. State of Madras', AIR 1954 SC 257 (A), in which the judgment has just now been delivered. The point for decision in this case is identically the same, namely, whether the provisions relating to compensation as contained in the Madras Act 26 of 1948 are invalid on the ground that they are colourable exercise of legislative powers under the Constitution Act of 1935. As we have indicated in our judgment in the above appeals, it is not open to the appellant to raise these contentions by reason of there being no entry in any of the legislative lists in the Government of India Act, 1935 corresponding to Entry 42 of List III in the present Constitution and because the guarantee given by Section 299(2) of the Act of 1935 is not available to the appellant by reason of Article 31(6) of the Constitution. The learned counsel appearing for the appellant has drawn our attention to the fact that absolutely no compensation has been allowed in respect of a large number of under-tenures.

Even if that is so, we feel powerless to give any relief to the appellant by reason of the express provision contained in Article 31(6) of the Constitution. The result is that this appeal should stand dismissed but without any order as to costs.