

Supreme Court of India

Rambhau vs State Of Maharashtra on 1 December, 1993

Equivalent citations: 1994 (1) SCALE 61, 1995 Supp (3) SCC 74

Bench: R Sahai, S Bharucha

JUDGMENT

1. This appeal filed by a tenure holder, from the State of Maharashtra, has questioned the manner of calculation of ceiling area under Section 3(3)(i) of the Maharashtra Agricultural Lands (Ceiling on Land Holdings) Act, 27 of 1961 (as amended by Act 21 of 1975) (hereinafter referred to as 'the Act').

2. What was claimed by the tenure holder was that he had two unmarried daughters on the relevant date. Therefore, the ceiling authority, while calculating the ceiling area of the family, should have taken into account the liability of the family for the maintenance and marriage expenses of these daughters. And their share in the land should have been notionally worked out and so much of the area, as would have been found sufficient for their maintenance, should have been excluded while determining the ceiling area of the appellant. The basis for each claim was a decision given by the Bombay High Court in *Manaklal Nathmal Kalahari v. State of Maharashtra* (1982) *Maharashtra Law Journal* 654. It was held that at the time of carving out a notional clause in terms of Section 3(3)(i) of the Ceiling Act, what the Ceiling Authority has to do is to notionally ascertain the shares of the coparcener as the Civil Court would have done at the time of passing of a partition decree. This conclusion was reached by the learned Judge on a strength of a Privy Council decision in *M.A. Rajagopala Ayyar v. M.A. Venkataraman* AIR (34) 1947 PC 122, wherein it was observed that the right of an unmarried daughter to maintenance and marriage expenses out of the joint family property is in lieu of a share on partition; provision should accordingly be made for her marriage expenses in the partition decree'. The Division Bench of the High Court, however, did not agree with it as this decision had not been agreed by another learned Judge of the same Court in *Bhagwandas Heda and Ors. v. State of Maharashtra and Ors.* (1983) *Maharashtra Law Journal* 825. The Division Bench agreed with the decision in *Heda's case* (supra) that the correct legal position under Section 3(3)(i) of the Ceiling Act is that while calculating the extent of share which the members of a family unit are entitled to hold, the claim of the unmarried daughters to maintenance and marriage expenses are not required to be taken into account'.

3. Section 3(3)(i) of the Act reads as under:

Section 3(3).- Where any land-

(a) is held by a family of which a person is a member,....

and the holding of such person or of a family unit of which such person is a member including the extent of share of such person, if any, in the land answering to any of the description as in Clauses (a), (b), (c) or (d) above, exceeds the ceiling area on or before the commencement date or any date thereafter (hereinafter referred to as the relevant date). Then for purpose of determining the ceiling area and the surplus land in respect of that holding, the share of such person in the land aforesaid shall be calculated in the following manner:

(i) in the land held by a family of which the person is a member, the share of each member of the family shall be determined so that each member, who is entitled to a share on partition shall be taken to be holding separately land to the extent of his share, as if the land had been so divided and separately held on the relevant date.

This Section provides method of calculation of the ceiling area of a family. It provides for determination of the land held by each member of the family and, then for clubbing together of the shares of such members who form a family unit and then to determine the ceiling and the surplus area of the tenure holder. A family unit in Explanation to Section 4(1), means:

(a) a person and his spouse (or more than one spouse) and their minor sons and minor unmarried daughters, if any; or

(b) where any spouse is dead, the surviving spouse or spouses, and the minor sons and minor unmarried daughters; or

(c) where the spouses are dead, the minor sons and minor unmarried daughters of such deceased spouses.

The ceiling area under Section (4) has to be determined of each member of a family unit, whether jointly or separately. Since the family unit under Section 4 consists of the tenure holder, his spouses and minor sons and minor unmarried daughters, it obviously excludes the major sons and the major daughters from the ambit of family unit for purposes of determination of ceiling area. In fact the provision is beneficial to a tenure holder. The family for purposes of determination of surplus area has been restricted to husband, wife and minor children only. If the submission of the learned Counsel for the appellant is accepted, and a major unmarried daughter is also held to be a member of the family unit for determination of ceiling area, it may cause hardship in large number of cases where a major unmarried daughter is a tenure holder in her own right. It is, therefore, not in the interest of the tenure holders to construe the Section in the manner suggested by the learned Counsel for the appellant.

4. Apart from it, the language of the Section being clear it does not require any interpretation or construction. The court's function of ascertaining the legislative intention arises only if there is any ambiguity in the provision or the literal construction of a provision may be contrary to the legislative purpose or objective or may result in disastrous consequences, on the plain reading of the Section, a notional working out of the share of each member of the family is required to be only of those members who are entitled to a share on partition. The significance of the expression 'entitled to a share on partition' cannot be lost sight of. An unmarried daughter may be entitled for maintenance and marriage expenses, but she was not entitled to a share on partition either under the customary Hindu Law or even under the Hindu Succession Act, 1956 or Hindu Adoptions and Maintenance Act, 1956. Therefore, a daughter being not entitled to a share on partition, the notionally working out of her share under Section 3(3) (i) stands legislatively excluded. In either case, an unmarried major daughter having not been included by the legislature in the definition of 'family unit' and for very good reasons the claim of the appellant that the calculation done by the ceiling authorities

suffers from any error of law or is unfair does not appear to be well founded.

5. In the result, the appeal fails and is dismissed. But there shall be no orders as to costs.