V. GOPAL REDDIAR (DEAD) BY L.R. AND ANR. ETC. A

v.

STATE OF TAMIL NADU AND ANR. ETC.

FEBRUARY 24, 1995

[K. RAMASWAMY AND MRS. SUJATA V. MANOHAR, JJ.] B

Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961—Section 23—Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970—Section 3(2)—Interpretation of—Fixation of land holding—Proceedings commenced under Principal Act—Not concluded before C *Reduction Act came into force—Method of calculation of ceiling-Transfer of land to any educational institution between 5-2-1970 and 2-10-1970—Valid transfer to be excluded from holding of any person—Benefit of section 21-A can be claimed.*

The appellants held agricultural lands in excess of the ceiling limit D **on 6-4-1960, the date of commencement of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. Under Section 5 of the Act, a ceiling of 30 standard acres was fixed on land holding in the case of a family. An additional 10 standard acres was the ceiling on holding of stridhana land. Within 90 days of the notified date, every person holding** E **in excess of the ceiling area was required to furnish to the Authorised Officer a return in respect of his land. The notified date under the Principal Act was 2-10-1962. The Authorised Officer was required to prepare a draft statement in respect of a person's holding in excess of the ceiling limit.**

F

If a person held land in excess of the ceiling limit, any sale of land, effected by him after the notified date but before the publication of the final statement, could not be taken into account while considering his holding for the purpose of the ceiling limit.

G

The appellant effected sale transactions in respect of certain lands held by him between 3-7-1963 and 17-7-1964 i.e. after the notified date. On 28-7-1965, a draft statement was published in respect of the appellant's lands. The appellant objected to the draft statement. While the proceedings were pending under the Principal Act, the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970 came into force. The date of H

A commencement of the Reduction Act was 15-2-1970 and the notified date was 2-10-1970. Under the Reduction Act, the ceiling on land in the case of a family was reduced to 15 standard acres.

The appellant claimed that the transactions of sale effected between 3-7-1963 and 17-7-1964 being prior to the commencement of the Reduction B Act should be excluded from their holding for the purpose of determining the now reduced ceiling limit under the pending proceedings. The claim was rejected. An order was passed asking the appellants to surrender 30.30 standard acres from out of their holding as surplus. The appellants challenged the order in an appeal before the Land Tribunal. The Tribunal C confirmed the order of the Authorised Officer and dismissed the appeal. In revision, the High Court directed a fresh enquiry to be held by the Authorised Officer. The Authorised Officer was directed to consider whether the sale transaction of the appellants before the notified date of 2-10- 1970 were bona fide transactions or not.

D The Authorised officer held that the transactions of sale after 6-4-1960 will have to be ignored for the purpose of the pending proceedings. He determined the surplus land accordingly. The Land Tribunal in appeal upheld the order. The revision petition filed against the order was dismissed by the High Court. Hence these appeals.

E The appellant contended that since the notified date now was 2-10-1970, transactions of sale between 2-10-1970 and the date of the publication of the final statement alone had to be ignored for the purpose of determining the ceiling of 15 standard acres under the amended principal Act.

F The respondent submitted that as a result of Section 3(2) of the Reduction Act, the pending proceedings under the old Act had to be continued save and except that the ceiling would be reduced. Hence transactions of sale after 2-10-1962 which were required to be ignored under the unamended section 23 of the Principal Act would also have to be ignored G under the Principal Act as modified by the Reduction Act in view of Section 3(1).

Dismissing the appeal, this Court

HELD : 1.1 In a case where a proceeding under the Tamil Nadu Land H Reforms (Fixation of Ceiling on Land) Act, 1961 had commenced under

the Act but had not concluded before the commencement of the Reduction Act, the proceeding will have to be continued under the unamended Principal Act to arrive at the permissible holding under the unamended Principal Act. A person, however, cannot hold more than the reduced ceiling area after the commencement of the Reduction Act. [360-E] A

1.2 The proceeding, therefore, will have to continue in order to further determine the reduced holding under the modified Principal Act. For the purpose of determining his final holding under the modified Principal Act, the amended Section 23 will have to be applied to the ceiling holding determined under the original Principal Act. In the present case, therefore the holding under the principal Act will have to be first determined by ignoring the sales after 2-10-62. There for the purpose of calculating the reduced ceiling area, sale transactions between the new notified date and the date of the final further statement alone should be ignored (vide amended section 23). Therefore, for further reduction under Section 3(2) what will have to be taken into account, will be the holding of the appellants as determined under the Principal Act [Section 3(I)], less any other permissible reduction in their holding on account of sales, transfers etc. prior to the commencement of the Reduction Act. [360-F-H] B C D

1.3 The words "and the provisions of the Principal Act as modified by Section 2 shall after the said date apply to such person" in Section 3(2) clearly indicate that the further reduction of holding as per the Reduction Act has to be done in accordance with the provisions of the Principal Act read with the Reduction Act. Sub-section (2) cannot be read as simply reducing the ceiling area in the pending proceedings under the Principal Act. Sub-section (2) clearly provides the method of thus reducing the ceiling after 15th of February, 1970. This further reduction has to be done in accordance with the provisions of the Principal Act read with the Reduction Act. [361-A-B] E F

B.K.V. Radhamani Ammal v. *Authorised Officer, Land Reforms, Coimbatore,* [1985] 2 SCC 46, distinguished. G

2. Section 21-A of the Tamil Nadu Reforms (Fixation of Ceiling on Land) Act, 1970 overrides all other provisions of the Act including Section 22. It will, therefore, override Section 3(1) of the Reduction Act also. Hence, as a result of Section 21-A, if between 5.2.1970 and 2.10.1970 any land is transferred voluntarily, inter alia, to any educational institution, such a H

A **transfer shall be valid. The land so transferred is, therefore, excluded from the holding of any person even though the proceedings against him may have commenced under the old (i.e. the Principal) Act. If the proceedings had not concluded before the Reduction Act came into force, the person can claim the benefit of Section 21-A. [366-C-D]**

B *Sushila Devi Ammal and Ors.* **v.** *State of Madras,* **[1993] 1 SCC 462 and** *M.K. Harihar Lyer* **v.** *Authorised Officer Land Reforms, Tirumelveli,* **[1990] 1 SCR 358, relied on.**

B.K.V. Radhamani Ammal **v.** *Authorised Officer, Land Reforms,*
C *Coimbatore,* **[1985] 2 SCC 46, distinguished.**

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3774-75 of 1992 etc. etc.

From the Judgment and Order dated 22.11.89 of the Madras High
D Court in C.R.P. No. 4802 and 4854 of 1982.

K. Parasaran and Sundara Varadhan, Peter Francis, V. Ramasubramanian, V. Balachandran, S. Srinivasan, K. Swami, K. Srinivasan, A. Mariarputham and Mrs. Aruna Mathur for the appearing parties

E The Judgment of the Court was delivered by

MRS. SUJATA V. MANOHAR, J. Leave granted in C.A. Nos. 3039-40-95 S.L.P. (Civil) Nos. 14935-14936 of 1994.

Substitution allowed in Civil Appeal Nos. 3774-3775 of 1992.

F All these appeals raise a common question of law relating to the interpretation of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961 (hereinafter referred to as 'the Principal Act') read with Tamil Nadu Act No. 17 of 1970 which is the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970. The latter Act is hereinafter
G referred to as 'the Reduction Act'. As the facts are different in each group of appeals, they are dealt with separately.

CIVIL APPEAL NOS. 3774-3775 OF 1992

The deceased, V. Gopal Reddiar, the first appellant and his wife, the
H second appellant in these appeals, held agricultural lands in excess of the

ceiling limit on 6.4.1960, which is the date of commencement of the Tamil Nadu Land Reforms (Fixation of Ceiling on Land) Act, 1961. under Section 5 of the Principal Act, a ceiling of 30 standard acres is fixed on land holding in the case of a family. An additional 10 standard acres is the ceiling on land holding of Stridhana land.

Under Section 7 of the Principal Act, on and from the date of commencement of the Act (i.e. on and from 6.4.1960) no person shall (except as otherwise provided in this Act, but subject to the provisions of Chapter VIII) hold land in excess of the ceiling area. under Section 8, within 90 days of the notified date, every person holding or deemed to be holding land in excess of the ceiling area is required to furnish to the Authorised Officer a return in respect of his land as specified in that Section. The notified date under the Principal Act is 2.10.1962. Under Section 10(1) the Authorised Officer is required to prepare a draft statement in respect of a person's holding in excess of the ceiling area in the manner and on the basis specified therein. This draft statement is required to be published. A final statement has thereafter to be prepared and published as set out in sections 12 to 14.

Under Section 23 of the principal Act, if a person holds land in excess of the ceiling limit any sale of land, effected by him after the notified date but before the publication of the final statement, cannot be taken into account in considering his holding for the purposes of fixing the ceiling. In the present case, the appellants effected sale transactions in respect of certain lands held by them between 3.7.1963 and 17.7.1964 i..e after the notified date under the Principal Act. There are five such transactions of sale during this period.

On 28.7.1965, a draft statement was published in respect of the appellants' land under section 10(1) of the Principal Act. The appellants objected to the draft statement on 18.11.1965. While the proceedings were pending under the Principal Act, the Tamil Nadu Land Reforms (Reduction of Ceiling on Land) Act, 1970 came into force. The date of commencement of the Reduction Act is 15.2.1970. Under the Reduction Act, the ceiling on land in the case of a family was reduced to 15 standard acres and the ceiling on Stridhana land was reduced to 5 standard acres. The "notified date" under the Reduction Act was 2.10.1970.

It was the contention of the appellants that the transactions of sale

A effected between 3.7.1963 and 17.7.1964 were prior to the commencement of the Reduction Act, and should be excluded from their holding for the purpose of determining the now reduced ceiling limit under the pending proceedings. This submission was rejected. An order was passed on 20.11.1971 asking the appellants to surrender 30.30 standard acres from out of their holding as surplus. Being aggrieved by the said order the appellants B filed an appeal before the Land Tribunal. The Land Tribunal confirmed the order of the Authorised Officer and dismissed the appeal.

In revision, the High Court by its order dated 16.7.1976 directed a fresh enquiry to be held by the Authorised officer. The High Court said C that under the Reduction Act the notified date was 2.10.1970. It directed the Authorised Officer to consider whether the sale transactions of the appellants before this notified date were bona fide transactions or not.

The Authorised Officer, by his order dated 25.9.1980, held that the D transactions of sale after 6.4.1960 will have to be ignored for the purpose of the pending proceedings i.e. the lands forming the subject matter of these sales shall be considered as a part of the appellants' holding. He determined the surplus land accordingly. The Land Tribunal in appeal upheld the order of the Authorised officer. The revision petition of the appellants has been dismissed by the High Court by its order dated 22nd E of November, 1989. Hence the present appeals have been filed.

Now, in order to appreciate the contentions of both sides, it is necessary to look at Chapter III of the Principal Act. Chapter III of the Principal Act is entitled "Ceiling on Future Acquisition and Restriction of F Certain Transfers". Sections 19 to 23 constitute this Chapter. under Section 19(1), on and after the notified date (2.10.1962), no document relating (inter alia) to any transfer of land by sale shall be registered unless a declaration is made by the transferee before the registering authority of the total extent of land held by him, as set out therein.

G Section 20(1) provides that if, as a result of any transfer of land (inter alia) by sale, on or after the notified date, the land held by the transferee exceeds the ceiling area, then the right, title or interest accrued in his favour by virtue of such transfer in excess of the ceiling area, shall be deemed to have been transferred to the Government. Both these sections H prescribe restrictions qua a transferee after the notified date.

Under Section 22, where on or after the date of commencement but before the notified date (i.e. from 6.4.1960 to 2.10.1962) any person has transferred any land held by him (inter alia) by sale, the Authorised Officer may, after notice, on enquiry, declare the transfer to be void if he finds that the transfer defeats any of the provisions of this Act.

Section 23 which is relevant for our purpose provides as follows:-

> Subject to the provisions of section 20, for the purpose of fixing, for the first time, the ceiling area of any person holding land on the date of the commencement of this Act, in excess of 30 standard acres, the authorised officer shall not take into consideration—
>
> (a) any transfer ..... by sale .....
>
> (b) ..... effected on or after the notified date and before the date of the publication of the final statement under Section 12, or 14."

Thus, Sections 22 and 23 place restrictions on transfer of land qua a transferor. Any transfer made by a transferor between 6.4.1960 and 2.10.1962 is liable to be declared void if it defeats the Principal Act. Any transfer made after 2.10.1962 and before the final statement cannot be taken into account for determining the land holding of the transferor, if he holds land in excess of the ceiling area. The transactions of sale in the present case are not affected by Section 22. Under Section 23, however, for the purpose of determining the ceiling area of 30 standard acres under the Principal Act, any sale transaction after the notified date of 2.10.1962 but before the publication of the final statement has to be ignored. Therefore, the transactions of sale in the present case, which have taken place after the notified date but before the final statement, have to be ignored for the purpose of determining the appellants' ceiling limit under the Principal Act.

However, in the present case, the Reduction Act had come into force before the publication of the final statement. As a result of the Reduction Act, the Principal Act was modified as set out in the said Reduction Act. As a result, "the date of the commencement of this Act" as defined in Section 3(11) of the Principal Act was changed to 15th of February, 1970 instead of 6th of April, 1960. By reason of amendment of Section 3(31),

A the "notified date" became 2.10.1970. In Section 5 of the Principal Act, the ceiling area of 30 standard acres was changed to 15 standard acres and the Stridhana holding was changed from 10 standard acres to 5 standard acres. We are not concerned with the other changes in Section 5.

Section 23 of the Principal Act was amended by insertion of the
B words "after the date of the commencement of this Act", after the words "for the first time"; and "30 standard acres" was substituted by "15 standard acres".

The amended Section 23 reads thus :

C

> Subject to the provisions of Section 20, for the purpose of fixing, for the first time, after the commencement of this Act, the ceiling area of any person holding land on the date of the commencement of this Act, in excess of 15 standard acres, the Authorised Officer shall not take into consideration -
>
> D
>
> (a) any transfer ..... by sale .....;
>
> (b) ..... effected on or after the notified date and before the date of the publication of the final statement under section 12 or 14."

E

It is contented by the appellants that since the notified date now is 2.10.1970, transactions of sale between 2.10.1970 and the date of the publication of the final statement *alone* have to be ignored for the purpose of determining the ceiling of 15 standard acres under the amended principal Act. Hence the transactions of sale in the present case, which have
F taken place prior to 2.10.1970, cannot be ignored and will have to be taken into account to determine the holding of the appellants on the date of the commencement of the Reduction Act.

This submission ignores section 3 of the Reduction Act which is in
G the nature of a Saving Section. It provides as follows :-

> "Section 3: (1) Subject to the provisions of sub-section (2) any action taken (including any order made, notification issued, decision or direction given, proceeding taken, liability or penalty incurred and punishment awarded) under the provisions of the
> H Principal Act before the date of the publication of this Act in the

Fort St. George Gazette, may be continued or enforced after the said date in accordance with the provisions of the Principal Act as if this Act had not been passed. A

(2) Nothing in sub-section (1) shall be deemed to entitle any person whether or not such person is a party to any proceeding mentioned in sub-section (1), to hold after the 15th day of February 1970, land in excess of the ceiling area under the Principal Act as modified by section 2 and the provisions of the Principal Act as modified by section 2 shall, after the said date, apply to such person." B

Section 3(1) provides that any proceeding which has been taken under the provisions of the Principal Act before the publication of the Reduction Act, may be continued in accordance with the provisions of the Principal Act as if the Reduction Act had not been passed. The proceeding for the determination of ceiling under the Principal Act had commenced in the present case in 1965. It had, however, not been concluded when the Reduction Act came into force. Under Section 3(1), therefore, this proceeding has to be continued as if the Reduction Act had not been passed. Taken by itself, therefore under Section 3(1) the ceiling area of 30 standard acres would have to be determined under the Principal Act as it originally stood. If so, the sale transactions in question will not be considered for determining the ceiling area prescribed under the unamended Principal Act, they having taken place after 2.10.1962 and before the publication of the final statement. C D E

Sub-section (2) of Section 3 of the Reduction Act, however, provides that notwithstanding anything contained in sub-section (1), no person shall be deemed to be entitled to hold after 15th of February, 1970, land in excess of the ceiling area under the Principal Act as modified by the Reduction Act. It further provides that the provisions of the Principal Act as modified by Section 2 of the Reduction Act shall, after 15th of February, 1970, apply to such a person. Therefore, it is clear that despite Section 3(1) the appellants cannot hold land in excess of the reduced ceiling area after 15.2.1970. Their holding, determined under Section 3(1), would have to be reduced further. How should this be done? F G

It is submitted before us by the respondents that as a result of Section 3(2) of the Reduction Act, pending proceeding under the old Act have to H

A be continued save and except that the ceiling would be reduced. Hence transactions of sale after 2.10.1962 which were required to be ignored under the unamended Section 23 of the Principal Act would also have to be ignored under the Principal Act as modified by the Reduction Act in view of Section 3(1).

B

This submission ignores an important part of Section 3(2) which prescribes that for the purpose of determining a person's reduced ceiling after 15th of February, 1970, the provisions of the Principal Act as modified by section 2 of the Reduction Act, shall apply to a person C against whom any proceedings are pending as described under Section 3(1). This means that under Section 3(2), for the purpose of determining the reduced holding, the amended Section 23 will have to be applied i.e. the notified date under the amended Section 23 has not to be read as 2.10.1970 instead of 2.10.1962. For the purpose, therefore, of reducing the holding further under Section 3(2), only sale transactions between D 2.10.1970 and the date of the final statement are required to be ignored. Sub-sections (1) and (2) of Section 3 must be read harmoniously. In a case where a proceeding under the Principal Act had commenced under the Principal Act but had not concluded before the commencement of the Reduction Act, the proceeding will have to be continued under the E unamended Principal Act to arrive at the permissible holding under the unamended Principal Act. A person, however, cannot hold more than the reduced ceiling area after the commencement of the Reduction Act. The proceeding, therefore, will have to continue in order to further determine the reduced holding under the modified Principal Act. For the purpose F of determining his final holding under the modified Principal Act, the amended Section 23 will have to be applied to the ceiling holding determined under the original Principal Act. In the present case, therefore, for the purpose of calculating the reduced ceiling area sale transactions between the new notified date and the date of the final statement G alone should be ignored (vide amended Section 23). Sale transactions prior to 15.2.1970 will have to be taken into account. Therefore, for further reduction under Section 3(2) what will have to be taken into account, will be the holding of the appellants as determined under the Principal Act [Section 3(1)] less any other reduction in their holding on H account of sales, transfers etc. prior to the commencement of the

Reduction Act. The existence of the words "and the provisions of the Principal Act as modified by Section 2 shall after the said date apply to such person" in Section 3(2) clearly indicate that the further reduction of holding as per the Reduction Act has to be done in accordance with the provisions of the Principal Act read with the Reduction Act. Sub-section (2) cannot be read as simply reducing the ceiling area in the pending proceedings under the Principal Act. Sub-section (2) clearly provides the method of thus reducing the ceiling after 15th of February, 1970. This further reduction has to be done in accordance with the provisions of the Principal Act read with the Reduction Act.

Any pending proceeding, therefore, under the Principal Act will have to be continued and concluded in the aforesaid manner by first calculating the ceiling area under the Principal Act and then reducing it further to the ceiling under the Reduction Act read with the Principal Act by applying the provisions of the Principal Act as modified by the Reduction Act; so that a person does not hold land in excess of the ceiling area prescribed under the Principal Act read with the Reduction Act. The holding of the appellants, therefore, is required to be redetermined in accordance with the principles laid down by us hereinabove.

The appeals are accordingly partly allowed. The proceedings are remanded to the Land Tribunal for determination of the ceiling area of the appellants in the manner described hereinabove. There will, however, be no order as to costs.

CIVIL APPEAL NOS. 4960-4965 OF 1994

These proceedings pertain to certain properties held by one Papayee Ammal. Papayee Ammal enjoyed lands which she had inherited as the heir of her husband and also as the successor- in-interest of her sister Saradambal. There were disputes between Papayee Ammal and one Victor Jagannathan, the son of her husband's sister, and his children in respect of these lands. As a result, a family arrangement was arrived at on 17.9.1959. Under the family arrangement, certain specified properties were given to Papayee Ammal for life and the remaining properties were given to Victor jagannathan and his children. After the death of Papayee Ammal, the properties in which she had a life interest, were to vest in the children of Victor

A Jagannathan absolutely. Papayee Ammal, however, had a right to alienate her properties in respect of which she had a life interest.

After this family arrangement was arrived at, Papayee Ammal, between 1960 and 1962 alienated certain properties in respect of which she had a life interest. As a result, in 1964 suits were filed against her by Victor B Jagannathan and his children challenging the alienations made by Papayee Ammal. These alienations, however, have been ultimately upheld by the High Court.

Papayee Ammal died on 23.6.1965. Victor Jagannathan also died on C 5.7.1965. In 1966, a draft statement under the Principal Act was published in respect of the land holding of Papayee Ammal since on the date of the commencement of the Principal Act, Papayee Ammal was alive and held lands as a limited owner. Proceedings were taken under the Principal Act after bringing the heirs of Papayee Ammal on record. Certain lands in D Vellappakam Village so held by Papayee Ammal and belonging to her estate were declared as surplus.

Between 1.1.1979 and 27.1.1979 the appellants purchased some of the lands in Vellappakam Village which have been declared as surplus, from E the children of Victor Jagannathan. The final statement, however, in respect of the holding of Papayee Ammal was published on 27.7.1983. The appellants and others filed revision petitions under Section 82 before the Land Commissioner. The Land Commissioner by his order dated 25.9.1984 held that there was no irregularity in the determination of the holding of F Papayee Ammal and that the lands involved in the earlier sales made by Papayee Ammal should be allowed to be retained within the ceiling limit of 30 standard acres as on 6.4.1960 and the lands involved in the subsequent sales should be declared as surplus.

The appellants filed writ petitions challenging the order of the Land G Commissioner. These petitions were transferred to the Tamil Nadu Land Reforms Special Appellate Tribunal. The tribunal by its order dated 17.9.1992 has held that lands held by Papayee Ammal would attract the provisions of the Principal Act. It has further held that there is nothing wrong in the proceedings commencing after the death of Papayee Ammal. H The Tribunal has rejected the contention of the appellants that since no

proceedings were commenced during the life-time of Papayee Ammal, land had become vested in the remaindermen and, therefore, the proceedings were without jurisdiction. The Tribunal also held that the provisions of the principal Act alone will apply, notwithstanding the coming into force of the Reduction Act. In this connection the Tribunal has relied upon the provisions of Section 3(1) of the Reduction Act referred to above.

In the present appeals it is this finding of the Tribunal which is under challenge.

It is contended by the appellants that on account of the death of Papayee Ammal in 1965 the properties vested in the remaindermen before the commencement of the Reduction Act. Hence the lands in question cannot be considered as holdings of Papayee Ammal on the date of the commencement of the Reduction Act. The proceedings, therefore, under the Principal Act are bad in law and the properties in question have been validly alienated in their favour by the heirs of Papayee Ammal.

This contention has been rightly rejected by the Tribunal under Section 3. Papayee Ammal was alive on the date of the commencement of the Principal Act and, therefore, her holding was required to be determined under the Principal Act. The proceedings against the estate of the Papayee Ammal were, therefore, rightly commenced under the Principal Act after bringing her heirs on record. During the pendency of these proceedings, the Reduction Act came into force. By reason of Section 3(1) of the Reduction Act, these proceedings for the purpose of determining the ceiling under the Principal Act were required to be continued under the Principal Act. However, in these proceedings, the reduced ceiling was required to be determined under the provisions of the Principal Act read with the Reduction Act. The pending proceeding, therefore, must proceed to a conclusion in the light of both sub-sections (1) and (2) of section 3. There is only one proceeding under both these sub-sections. In that proceeding, the permissible holding must be first determined as per the Principal Act. This holding must, thereafter, be further reduced as provided in section 3(2) by applying the Principal Act as modified by the Reduction Act. Hence there is only one proceeding-the one which is commenced under the Principal Act. If it has not concluded before 15th February, 1970, it is required to be continued and completed in the above

A manner. Since the proceeding is one and continuous, the death of Papayee Ammal during the pendency of this proceeding does not result in the termination of this proceeding. Section 3(2) merey prescribes a reduced ceiling and the method of its calculation. It does not contemplate commencement of a fresh proceeding when the proceeding under the Principal Act B has not come to a conclusion.

The sale transactions in question which took place in January 1979 will clearly have to be taken into account for the purpose of determining the reduced holding of the estate of Papayee Ammal. Since these sale transactions have taken place after the new notified date as per the C Reduction Act and before the final statement, these cannot be excluded from the holding of Papayee Ammal.

The ratio of the judgment of this court in *B.K.V. Radhamani Ammal* v. *Authorised Officer, Land Reforms, Coimbatore,* [1985] 2 SCC 46 does not D apply to the present case. In that case the proceedings under the Principal Act had come to an end. After the coming into force of the Reduction Act, fresh proceedings were commenced under the Principal Act as amended by the Reduction Act. In the present case, fresh proceedings are not taken after 15.2.1970. The proceeding under the Principal Act had not been concluded before the commencement of the Reduction Act. It was, E therefore, continued under the Principal Act under section 3(1) read with Section 3(2). It does not abate on account of the death of Papayee Ammal during its pendency as the heirs and legal representatives of Papayee Ammal are on record.

F The appeals are accordingly dismissed. There will, however, be no order as to costs.

CIVIL APPEAL NOS. 3039-40 OF 1995 (Arising out of S.L.P.(C) Nos. 14935-36 of 1994)

G In the present case, one Chellamani Ammal, the mother of the appellant, had filed a return under Section 8(1) of the Principal Act in respect of lands held by her. She had filed another return on behalf of the appellant, who is her adopted son, and who was then a minor. As per Section 3(14) of the said Principal Act their holdings were clubbed as one H unit. There were several proceedings adopted in connection with clubbing

of the two holdings by Chellamani Ammal and the appellant with which we are not concerned. During the pendency of these proceedings, the Reduction Act came into force.

On 30.9.1970 the appellant made a Deed of Declaration of Trust settling 14.93 acres in favour of E.R. Hindu Elementary School, Trichy. On the same date Chellamani Ammal also executed Deed of Declaration of Trust settling 31.41 acres of her land in favour of E.R. Hindu Elementary School, Trichy. Both of them claimed that the land which was the subject matter of the two trusts should be excluded from their holdings under Section 21-A of the Reduction Act.

In this connection, Writ Petition Nos. 652 and 653 of 1977 were filed by the appellant and his mother before the High Court of Madras. The High Court by its order dated 7.1.1980 set aside the orders of the Land Tribunal and remanded both the matters to the Tribunal for fresh consideration relating to the applicability of section 21-A of the Principal Act read with the Reduction Act, to the holdings in question. The tribunal in turn remitted the proceedings to the Authorised Officer for fresh disposal in the light of the observations made by the High Court.

The Authorised Officer held that since the proceedings had been initiated only under the Principal Act, they had to be continued according to the provisions of the Principal Act in view of Section 3(1) of the Reduction Act. He held that Section 21-A which was incorporated in the Principal Act by the Reduction Act, would not apply to these proceedings. These findings were upheld by the Land Tribunal as also by the Tamil Nadu Land Reforms Special Appellate Tribunal. Hence, the present appeals by special leave have been filed before us.

Section 21-A has been inserted in the Principal Act by the Reduction Act. The relevant provisions of Section 21-A are as follows :

> "Section 21-A: Notwithstanding anything contained in Section 22 or in any other provision of this Act and in any other law for the time being in force, where, after the date of the commencement of this Act, but before the notified date-
>
> (a) .....

A (b) .....

(c) any person has voluntarily transferred any land-

(i) to any educational institution; or

B (ii) hospital;

of a public nature solely for the purposes of such institution or hospital ..... such .... transfer shall be valid ....."

This section overrides all other provisions of the Act including Section 22. C It will, therefore, override Section 3(1) of the Reduction Act also. Hence, as a result of Section 21-A, if between 5.2.1970 and 2.10.1970 any land is transferred voluntarily, *inter alia*, to any educational institution, such a transfer shall be valid. The land so transferred is, therefore, excluded from the holding of any person even though the proceedings against him may D have commenced under the old (i.e. the Principal) Act. If the proceedings had not concluded before the Reduction Act came into force, the person can claim the benefit of Section 21-A.

In the case of *Sushila Devi Ammal and Ors.* v. *State of Madras,* [1993] suppl. 1 SCC 462 the provisions of Section 21-A were construed by this E Court. In that case, proceedings under the Principal Act were pending. The High Court had, in revision, held that there was a material irregularity in the order in computing the holding which needed to be corrected. These proceedings were pending when Section 21-A was enacted by the Reduction Act. This Court, while interpreting Section 21-A, stated :-

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"However, the said provision gave, what we may call, a transfer holiday, for a small period from February 15, 1970 to October 2, 1970 providing that *notwithstanding anything contained in Section 22 or in any other provision of this Act,* and in any other law for the time being in force, where any person has effected by means G of a registered instrument a partition of his holding or part thereof such partition shall be valid. Now here the family which is a person under section 3(47) of the Act by means of a registered partition deed effected a partition on April 29, 1970 within those crucial dates. It is significant to notice that this provision with its non-H obstante clause has asserted supremacy over all other provisions

of the Act....." A

[emphasis supplied]

This Court held that Section 21-A would override the provisions of Section 23. this ratio is directly applicable to the present case. Section 21-A will, therefore, apply to pending proceedings under the Principal Act, notwithstanding the provisions of Section 3(1) of the Reduction Act. B

In this connection, a reference has also been made to the case of *M.K. Harihar Iyer* v. *Authorised Officer Land Reforms, Tirunelveli,* [1990] 1 SCR 358. In that case appellant-land-owner had land in excess of 30 C standard acres as on 6.4.1960. He filed a return as required by the Principal Act and an enquiry was initiated by the Authorised Officer. Under the said Act several objections raised by the appellant were rejected and the Authorised Officer determined the surplus holding of the appellant. There were various proceedings in connection with this finding of the enquiry D officer which ultimately went in revision before the High Court. One of the pleas raised before the High Court was in connection with certain documents executed by the appellant between 15th of February, 1970 and 2nd of October, 1970. Section 21-A came to be incorporated in the Principal Act by reason of the Reduction Act. The High Court held that provisions E of Section 21-A would have to be applied for determining the ceiling area. It further held that if the document executed were found to be in order to defeat the provisions of the Act, the transactions may be declared void under Section 22 of the Act. This finding of the High Court was challenged before this Court. This Court considered the provisions of Section 21-A F and Section 22 of the Principal Act as amended by the Reduction Act, and held that Section 21-A, which begins with the words - "notwithstanding anything contained in Section 22" - clearly overrides Section 22. Hence transactions covered by Section 21-A cannot be inquired into under Section 22. In view of the overriding effect of Section 21-A over not only Section 22, but any other provision of law, it must override Section 3(1). G

Our attention was also drawn to a decision of this Court in the case of *B.K.V. Radhamani Ammal* (supra). The ratio of this case, however, will not apply here since in that case, the proceedings under the Principal Act had already concluded long before the Reduction Act came into operation H

A and the proceedings which were considered by this Court in that case were fresh proceedings initiated under the Principal Act read with the Reduction Act.

In the present case, the benefit of Section 21-A is available to the appellant in respect of the Deeds of Trust executed on 30.9.1970. The B holding of the appellant, therefore, has to be calculated after applying the provisions of Section 21-A.

The appeals are accordingly allowed to this extent. The matter is remanded to the Land Tribunal for a fresh determination in the light of C this judgment. There will, however, be no order as to costs.

Looking to the circumstances, the Land Tribunal is directed to dispose of all these matter expeditiously, preferably within four months.

A.G. Appeal dismissed.