A P.V. DEVASSIA

v.

STATE OF KERALA AND ORS.

MARCH 1, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

Kerala Land Reforms Act, 1963: Sections 82(1)(a) and 84(1A). Land ceiling—Land owner making gift of 10 acres and 11 acres of land to two sons respectively—Exemption from ceiling in respect of such lands to the extent of C *only 6 acres in favour of each son held right.*

The appellant executed two gift deeds bequeathing 10 acres and 11 acres of land respectively in favour of his two married sons and applied for exemption of those lands from his ceiling area prescribed under the Kerala Land Reforms Act, 1963. The Land Tribunal gave benefit only to D **the extent of six acres in respect of each of the sons. The High Court confirmed the order of the Land Tribunal. The appellant preferred an appeal in this Court.**

Dismissing the appeal, this Court

E **HELD: A conjoint reading of Section 82(1)(a) and 84(1A) of the Kerala Land Reforms Act, 1963 clearly envisages that if a gift deed is executed by a person in favour of his son or daughter etc., the maximum land which the donor is empowered to gift, would not be less than six acres and not more than seven and a half acres of land in extent. The Tribunal,** F **therefore, had rightly granted an extent of six acres of land to each of the appellant's married sons. Therefore, there is no illegality in the orders of the Tribunal and the High Court warranting interference. [431-H, 432-C]**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4152 of 1995.

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From the Judgment and Order dated 29.1.88 of the Kerala High Court in C.R.P. No. 1916 of 1984.

E.M.S. Anam for the Appellant.

H M.T. George for the Respondents.

The following Order of the Court was delivered : A

Leave granted.

This appeal by special leave arises from the judgment of the High Court of Kerala in C.R.P. No. 1916/84 dated January 29, 1988. The appellant has two married sons. He executed two gift deeds, Ex.R- 1 and Ex.R-2 B bequeathing 10 acres and 11 acres respectively in favour of his sons. He had applied for exemption of those lands from his ceiling area prescribed under the Kerala Land Reforms Act. On remand by the High Court, the Land Tribunal gave the benefit of six acres to each of the sons. For rest of the land covered by the gift deeds, the revision petition was filed. The High C Court confirmed the order of the Land Tribunal and dismissed the revision petition.

Section 84(1A) reads thus:

"Section 84(1A): Notwithstanding anything contained in sub-s.(1), D or in any judgment, decree or order of any court or other authority, any voluntary transfer effect by means of a gift deed executed during the period commencing on the 1st day of January, 1970 and ending with the 5th day of November, 1974 by a person owning or holding land in excess of the ceiling area in favour of his son or E daughter or the son or daughter of his predeceased son or daughter shall be not to be, or ever to have been, invalid -

(a) if the extent of the land comprised in the gift does not exceed the ceiling area specified in clause (a) of sub- s.(1) of s.82; and

(b) if the extent of the land comprised in the gift exceeds the ceiling F area specified in the said clause, to the extent of that ceiling area."

Section 82(1)(a) reads thus:

"Section 82(1)(a): In the case of an adult unmarried person or a G family consisting of a sole surviving member, five standard acres, so however that the ceiling area shall not be less than six and more than seven and a half acres in extent."

A conjoint reading of these provisions would clearly envisage that a gift deed executed between the period commencing from January 1, 1970 H

A and ending with November 5, 1974 by a person owning or holding land in excess of the ceiling area in favour of his son or daughter or son or daughter of the predeceased son or daughter shall not be deemed to be or ever to have been invalid. The extent of the land comprised in the gift should not exceed the ceiling area specified in clause (a) of s.82(1), which in the case of an adult unmarried person or a family consisting of a sole B surviving member, shall be five standard acres, so however that the ceiling area shall not be less than six and more than seven and a half acres in extent. In other words, if a gift deed is executed by a person in favour of his son or daughter etc., the maximum land which s.82(1)(a) empowers the donor to gift, would not be less that six acres and not more than seven and C a half acres of land in extent. The Tribunal, therefore, had rightly granted an extent of six acres of land to each of his married sons. Therefore, we do not find any illegality in the orders of the Tribunal and the High Court warranting interference.

The appeal is dismissed. No costs.

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T.N.A. Appeal dismissed.