

CASE NO.:
Appeal (civil) 333-334 of 1998

PETITIONER:
TALUK LAND BOARD AND ORS.

RESPONDENT:
CYRIAC THOMAS AND ORS.

DATE OF JUDGMENT: 10/09/2002

BENCH:
SYED SHAH MOHAMMED QUADRI & S.N. VARIAVA

JUDGMENT:
JUDGMENT

2002 Supp(2) SCR 217

The following Order of the Court was delivered

The Taluk Land Board constituted under the Kerala Land Reforms Act 9 (for short, 'the Act') is in appeal against the common order made by a learned single judge of the High Court of Kerala at Ernakulam, in C.R.P. Nos. 1669 and 2453 of 1993, on November 18, 1996. By the impugned order, the High Court accepted the sale deeds executed by the sisters of the declarant-Cyriac Thomas (the first respondent) resulting in leaving no excess land to be surrendered by him.

The point that arises for consideration is whether the sisters of the declarant had title to the land or it, in fact, belonged to the declarant and therefore, the sales ought to be ignored and the land added to his holding.

One Mr. Elanjikkal Cyriac died sometime before 1958. He was survived by his three sons, including the declarant, and four daughters. He left some agricultural land. As long back as in 1978, the appellant held that the declarant had no excess land to surrender. However, in 1980, the case was reopened and after taking into consideration the objections filed by him, the appellant held that the first respondent had 9.87 acres of land in excess of the ceiling limit as on January 1, 1970. On December 5, 1985 the High Court on the civil revision petition filed against the said order, remanded the matter to the appellant. After remand, the appellant by its order dated August 12, 1993 quantified the excess land (7.26.040 acres) which was to be surrendered by him. It was against that order of the appellant two civil revision petitions were filed - one by the declarant and the other by his three sisters. The High Court disposed them of by the impugned judgment, referred to above. That is how the present appeals are before us.

The germane question is whether the declarant, his two brothers and four sisters are entitled to a share in the land left by the deceased Elanjikkal Cyriac. The answer to question determines the result of this case. If all of them had inherited the land, the appeals are bound to fail but if it is found the sisters did not, then sales effected by them would be invalid and the appellant will have to succeed, the declarant shall be liable to surrender the excess land as held by the appellant. Succession to the estate of a person was governed by the Travancore Christian Succession Act, 1092 in the erstwhile State of Travancore Cochin which was a Part-B State. The Indian Succession Act was extended to the Travancore Cochin State by Part-B States (Laws) Act. 1951. Consequently, all the children of the deceased Cyriac inherited the land under the Indian Succession Act. It is not disputed that if the Indian Succession Act applies, all the sisters will be entitled to equal share along with the brothers in the properties

left by the deceased Elanjikkal Cyriac. This position came to be recognised by the judgment of this Court in Mary Roy and Ors. v. State of Kerala and Ors., [1986] 2 SCC 209. This court laid down that on extension of the Indian Succession Act, 1925 to Part-B State of Travancore Cochin, the Indian Succession Act applied to succession opened thereafter. It follows that all the sisters had share in the land and, therefore, the land covered by the sales in question could not be added to the holding of the declarant as the deed executed by them would be valid.

In this view of the matter, the order under challenge warrants no interference. The appeals fail and they are dismissed but in the circumstances of the case, without any order as to costs.

JUDIS