1972 *Present :* **Pathirana, J., and Rajaratnam, J.**

S. V. RASAMANICKAM, Petitioner, *and* B. ALFRED and another, Respondents

S. C. 541/72—Application for a Writ of Certiorari on the Assistant Commissioner of Agrarian Services, Anuradhapura and another

Paddy land—Lease of it by owner—Sub-lease of a portion by lessee—Rights of the sub-lessee as against the owner—"Landlord"—Paddy Lands Act No. 1 of 1958, ss. 4 (1A), 4 (2), 63 (1).

Where the owner of a paddy land leases the entire land and the lessee, without cultivating the land, subleases a portion of the land, the sub-lessee, if he has cultivated his portion, is in the position of a tenant-cultivator as against the owner, even if the owner has obtained a decree of Court to eject his lessee. In such a case, the provisions of section 4 (2) of the Paddy Lands Act are applicable.

APPLICATION for a Writ of *Certiorari*.

S. Sharvananda, with *S. Mahenthiran*, for the petitioner.

No appearance for the respondents.

Cur. adv. vult.

September 25, 1972. PATHIRANA, J.—

This is an application made by the Petitioner who is the landlord of an extent of paddy land for a Writ of Certiorari to quash the order made by 2nd Respondent the Assistant Commissioner of Agrarian Services, Anuradhapura, under the Paddy Lands Act, which held that the first respondent was the tenant cultivator of an extent of two acres out of the paddy land called "Thimbirikaldawela Kadu" ten acres in extent and that he be restored to the possession of the said extent of two acres.

The petitioner's case is that he and his wife Saraswathy are the owners of this paddy field in extent about 10 acres and that in the year 1956 he had leased this land to one S. Rajadurai and that his lessee S. Rajadurai without cultivating the entire extent of 10 acres had let out to the first respondent two acres, to L. Ranasinghe who is the first respondent in Application No. 542/72 one acre and to J. G. Abilinu the first respondent in application No. 543/72 three acres. The petitioner stated that he instituted in D. C. Anuradhapura No. 7500 an action against his lessee S. Rajadurai and had him ejected from the entire field on 13.10.1970. The first respondent notified the 2nd Respondent the Assistant Commissioner of Agrarian Services stating that he had been evicted by the petitioner from the two acres (out of an extent of 10 acres) which was leased to him by the said S. Rajadurai and he asked for an inquiry and an order restoring him to possession of the said land.

The petitioner stated at the inquiry before the second respondent that he opposed the application of the first respondent and urged that the second respondent had no authority in law to proceed with the inquiry and/or make an order contemplated by section 4 (1A) of the Paddy Lands Act against the petitioner. The second respondent by the order dated 13.12.1971 had held that the first respondent was entitled to have the use and occupation of the two acres of paddy which he had cultivated under the lessee S. Rajadurai and ordered that he be restored to possession of these two acres under Section 4 (1A) of the Paddy Lands Act. Under Section 4 (1C) where there is

no appeal from such an order such decision shall be final and conclusive and shall not be called in question in any legal proceedings in any Court. I agree with learned counsel for the petitioner that for an order to have the final and conclusive effect which shall not be called in question in any court of law, such order must be made by an authority within the provisions of the law and not outside its jurisdiction. The petitioner thereafter appealed against this order to the Board of Review constituted under the Paddy Lands Act. By order dated 16.8.1972 the Board of Review dismissed the petitioner's appeal. Under the Paddy Lands Act the decision made by the Board of Review on such an appeal "shall be final and conclusive and shall not be questioned in any legal proceedings".

The petitioner's case, however, is that the second respondent had no jurisdiction to make that order under the Paddy Lands Act, in that he had exceeded his powers in granting relief under Section 4 (1A) to the first respondent, to the prejudice of the petitioner. His position is that the first respondent is not a tenant cultivator within the meaning of the Paddy Lands Act under the petitioner. The main reason urged is that there was no legal nexus or contractual relationship between the petitioner and the first respondent and the petitioner was not the landlord of the first respondent in terms of Section 4 (1A) of the Act and therefore cannot be bound by the order made under the Act as the petitioner had not let the paddy field to the first respondent. The petitioner further contends that having terminated the lease granted by him to S. Rajadurai he is not bound by the subletting by Rajadurai of the two acres of paddy land to the first respondent and to the other tenant cultivators in application Nos. 542/72 and 543/72. The petitioner, therefore, states that the second respondent did not have the jurisdiction to proceed under and make an order against the petitioner under Section 4 (1A) of the Paddy Lands Act and therefore the entire proceedings are a nullity.

The first respondent had stated at the inquiry before the second respondent that he was the tenant cultivator of the lessee from the year 1957 and that after the petitioner had obtained judgment against his lessee S. Rajadurai and evicted him he was not allowed to cultivate the said paddy field. B. P. M. Gamage, Honorary Secretary of the Cultivation Committee has said that the names of the first respondent and the other tenant cultivators in the applications Nos. 452/72 and 453/72 appear in every register kept by him in the field registers as tenant cultivators.

I am of the view that the second respondent had jurisdiction to inquire into the application made by the first respondent against the petitioner in which he alleged that he had been evicted by the petitioner and therefore sought an order to restore him to possession of the paddy land. The first respondent's case comes within Section 4 (2) of the Paddy Lands Act which states as follows :—

> " (2) Where a person (hereafter in this subsection referred to as the lessor) lets any extent of paddy land to any other person (hereafter in this subsection referred to as the lessee) and the lessee does not become the tenant cultivator of such extent by reason of the fact that he is not the cultivator thereof, then if the lessee lets such extent to any person (hereafter in this subsection referred to as the subtenant) and the subtenant becomes the tenant cultivator of such extent by reason of his being the cultivator thereof, the subtenant's rights as tenant cultivator of such extent shall not be affected in any manner by the termination of the lease granted by the lessor to the lessee."

Under this section where the lessee lets an extent of paddy land to any person, such person who is described as a subtenant becomes the tenant cultivator of such an extent by reason of his being the cultivator thereof. The fact that the petitioner in this case had terminated the lease granted by him to his lessee S. Rajadurai does not affect in any manner the first respondent's rights as tenant cultivator. Therefore by the operation of Section 4 (2) the first respondent becomes the tenant cultivator of the two acres of the paddy land which he had cultivated. In my opinion there is no necessity under the circumstances of this case for there to be a contract between the petitioner and the first respondent in order to make the first respondent tenant cultivator in view of the provisions of Section 4 (2) of the Act.

The definition of " landlord " in Section 63 (1) of the Paddy Lands Act reads as follows :—

> " ' landlord ' with reference to any extent of paddy land, means the person, other than an owner cultivator, who will for the time being be entitled to the rent in respect of such extent if it were let on rent to any person, and includes any tenant of such extent who lets it to any subtenant."

A " landlord " in Section 63 (1) is not described as a person who has a contractual relationship with the tenant cultivator but " a person who will for the time being he entitled to rent

in respect of such extent if it were let on rent to any person ..... ". The petitioner in this case comes within the definition of " landlord " in relation to the first respondent under the definition of " landlord " in Section 63 (1).

Counsel for the petitioner argued that only where the lessee lets the entire extent of the paddy land leased by him to a subtenant that the subtenant becomes the tenant cultivator and that in this case as the lessee had let only two acres to the first respondent, the first respondent would not therefore become the tenant cultivator under Section 4 (2). I am unable to agree with this submission. The purpose of this Act is " to provide security of tenure to tenant cultivators ". By giving this interpretation suggested by counsel to Section 4(2) meaning and purpose cannot be given to this statute in order to carry out its objects, namely, provide security of tenure to tenant cultivators. The narrow interpretation given by counsel would defeat the purpose for which this statute was enacted. In this context the observations of Viscount Simon L. C. in the case of *Nokes v. Doncaster Amalgamated Collieries Ltd.*[1] 1940 Appeal Cases 1014 at 1022 are relevant and useful :—

> " . . Judges are not called upon to apply their opinions of sound policy so as to modify the plain meaning of statutory words, but where, in construing general words the meaning of which is not entirely plain there are adequate reasons for doubting whether the Legislature could have been intending so wide an interpretation as would disregard fundamental principles, then we may be justified in adopting a narrower construction. At the same time, if the choice is between two interpretations, the narrower of which would fail to achieve the manifest purpose of the legislation, we should avoid a construction which would reduce the legislation to futility and should rather accept the bolder construction based on the view that Parliament would legislate only for the purpose of bringing about an effective result. "

The legislature in enacting Section 4 (2) would have been aware that the large mass of peasants who form the vast majority of tenant cultivators of this country do not have the expertise or the material resources to cultivate large extents like 10 acres of paddy land but that invariably small extents or portions are given out to peasant tenant cultivators by owners or their lessees for the purpose of cultivation. In my view the words " such extent " in Section 4 (2) mean " even a portion of such an extent ". I hold that the second

[1] *1949 A.C. 1014 at 1022.*

respondent had jurisdiction to inquire into this matter referred to by the first respondent under Section 4 (1A) of the Paddy Lands Act.

The petitioner is also not entitled to make this application for a writ of Certiorari in view of the provisions of the new Section 22 of the Interpretation Ordinance which has been introduced by the Interpretation Amendment Act No. 18 of 1972. The order complained of *ex facie* is made within the powers conferred on the second respondent the Assistant Commissioner of Agrarian Services under the provisions of the Paddy Lands Act.

We refused this application and the applications Nos. 542/72 and 543/72 and I now deliver my reasons for the refusal of those applications.

RAJARATNAM, J.—I agree.

Application refused.