

**(2000) 12 AP CK 0059**  
**In the Andhra Pradesh High Court**  
**Case No : CRP No. 5453 of 1997**

|                             |    |            |
|-----------------------------|----|------------|
| Bonam Venkata Satyanarayana | Vs | APPELLANT  |
| State of A.P.               |    | RESPONDENT |

---

**Date of Decision :** 15-12-2000

**Acts Referred:**

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 10(4), 9

**Citation :** (2001) 1 ALD 408 : (2001) 1 ALT 336 : (2001) 1 APLJ 41

**Hon'ble Judges :** S.B. Sinha, C.J

**Bench :** Single Bench

**Advocate :** Mr. M.V. Suresh, for the Appellant; Government Pleader for Land Ceiling, for the Respondent

---

## Judgement

S.B. Sinha, CJ. 1. This Application is directed against an order dated 14-7-1997 passed by the Land Reforms Appellate Tribunal-cum- IV Additional District Judge, East Godavari District, Kakinada, in LRA No. 114 of 1992.

2. The short question which arises for consideration in this application is as to whether without service of a notice u/s 9 of Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, the impugned order could have been passed by the Land Reforms Appellant Tribunal, Kakinada, in terms of Section 10(4) thereof.

3. Section 9 and Section 10(4) of the Act, which are material for the present purpose, read thus:

"9. Determination of ceiling area :--The Tribunal shall on receipt of the declaration furnished or information obtained u/s 8, publish the same, and make an enquiry, in such manner as may be prescribed, and pass order determining whether the person holds or is deemed to hold on the notified date an extent of land in excess of the ceiling area and if so, the extent of land so held in excess as on that date."

"10. Surrender of land in certain cases :

(1) . . .

(2). . .

(3) . . .

(4) If the person on whom a notice is served under sub-section (2) does not file the statement referred to in that subsection within the period fixed therefore or files such statement within the period fixed but does not specify therein the entire extent of land which such person has to surrender, the Tribunal may, after giving an opportunity to the person concerned of being heard, itself select, in the former case the entire extent, and in the latter case, the balance of the extent which such person has to surrender, and pass an order to that effect, and thereupon the said land or balance of land, as the case may be, shall be deemed to have been surrendered by such person."

4. A bare perusal of the provisions contained in Section 9 of the said Act would show that rights of the parties to hold that land within the ceiling area have to be determined therein. It is not in dispute that order u/s 9 has to be communicated to the persons concerned. Section 10(1) provides that in the event in the proceedings a persons is found to be in possession of the land in excess of the ceiling area, he shall be liable to surrender the land held in excess. Sub-section (2) of Section 10 provides for service of a notice upon such person specifying therein the extent of the land which such person has to surrender. Service of such a notice is mandatory. Before the learned appellate Tribunal, the records were produced. From a perusal whereof, it appears that Form-IV notice has been sent. However, there is no finding as to whether the order u/s 9 was served upon the petitioner or not. It is one thing to say that notice has been issued but it is another thing to say that an order has been communicated. The term "communication" implies service of actual notice.

5. Such a jurisdictional question, in the opinion of this Court, could not have been decided only upon arriving at a finding that "if the said order was not served on him, when he has kept quiet all the time without applying for a certified copy of the order questioning the propriety of the order passed by the lower Tribunal even after receiving the notice u/s 10(4) of the Act".

6. The said finding appears to have been arrived at on surmises and conjectures. If service of notice has been mandatory, it was for the respondent to prove the same.

7. For the reasons aforementioned, the impugned order cannot be sustained which is set aside accordingly and the matter is remitted to the Land Reforms Appellate Tribunal. The Land Reforms Appellant Tribunal is directed to dispose of the matter within a period of one month from the date of communication of a copy of this order. The civil revision petition is allowed accordingly. No costs.