

**(2001) 09 AP CK 0154**

**In the Andhra Pradesh High Court**

**Case No : Civil Revision Petition No. 920 of 1999**

Chevuru Suryanarayana Reddy

APPELLANT

Vs

The Special Tahsildar (Land Reforms) and Another

RESPONDENT

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**Date of Decision : 19-09-2001**

**Acts Referred:**

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 10, 21

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 — Rule 7, 7(1), 7(2), 7(6)

**Citation : (2001) 3 APLJ 189**

**Hon'ble Judges : P.S. Narayana, J**

**Bench : Single Bench**

**Advocate : P. Sridhar Reddy, for the Appellant; G.P., for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

P.S. Narayana, J.—The unsuccessful declarant is the Revision Petitioner. The Revision is filed u/s 21 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act 1973, hereinafter in short called as "Act". The declarant had filed the present Revision aggrieved by the order of the Land Reforms Appellate Tribunal-cum-Additional District Judge, Nellore in L.R.A. No. 15/91, dated 31-12-1998. After several rounds of determination of the total holding of the declarant by the Primary Tribunal, Appellate Tribunal and also by the Hon"ble High Court, the Primary Tribunal by its order dated 31-7-1989 ultimately held that the total holding of the declarant was 2.3060 SH after deducting 79 cents of land in two survey numbers since that land was held to be non-agricultural land. The Primary Tribunal in C.C. No .1317/KVR/75, dated 31-7-1989 while holding the declarant has already surrendered his lands to the extent of surplus due by him, it was held as follows:-

"Accordingly the holding of the declarant last computed as 2.3136 SH in this office orders dt.25-1-1980 is hereby ordered to be reduced by 0.0096 SH and

the same is redetermined as 2.3060 SH. As the family unit of the declarant is entitled to one unit as fixed in the land reforms tribunal's order dt .4-6-76, the surplus held by the declarant in excess of the ceiling area is redetermined as 1.3060 sH. As the declarant has already surrendered his lands to the extent of the surplus due by him, no further notice in form VI to him need be issued".

2. The declarant aggrieved by the same had preferred L.R.A. No. 15/91 wherein the Appellate Tribunal while disposing of the appeal at paragraph-5 had observed as follows:-

"It may be noted that in the order dt. 31-7-89 it is mentioned in para-13 thereof that the declarant has already surrendered his surplus lands and the learned Govt. Pleader also says that the extent of Ac.9-82 cents mentioned in para-4 of the memorandum of appeal was also surrendered. If it was so surrendered it was not necessary for the authorities to approach the declarant again. If it is not surrendered it may be noted that it is not open for the authorities to go to the appellant and orally demand him for surrender of the same without following the procedure prescribed under the Act and rules for taking possession of surplus lands. It is made clear that if the declarant is still in possession of the land mentioned in para-4 of the Memorandum of appeal it is open for him to retain the same and the authorities shall not orally demand the surrender of that land without following the procedure prescribed under the Act and rules and with this observation I think this appeal can be disposed of and the learned Govt. pleader also agreed for this course".

3. The declarant aggrieved by the said order had preferred the present Civil Revision Petition.

4. Sri Sridhar Reddy, the learned counsel representing the Revision Petitioner had contended that that the Appellate Tribunal had gone wrong insofar as adjudicating whether the extent of Acs.9-22 cents was surrendered by the Revision Petitioner or not and simply observing that if it was surrendered it was necessary not for the authorities to approach the declarant and if it was not surrendered the authorities have to follow the procedure, is illegal and unsustainable. The learned counsel also had contended that for the remaining surplus land, the authorities are bound to follow the mandatory procedure prescribed u/s 10 of the Act r/w. Rule 7 of the Rules framed thereunder. The learned counsel also had contended that the Land Reforms Appellate Tribunal should have considered the aspect that the respondents are bound to follow the procedure of issuing notice to the Revision Petitioner in prescribed form u/s 7(1) of the Act calling upon the declarant to nominate lands and the statement filed under Rule 7(2) has to be considered and the Tribunal has to communicate the order in Form VII and if the Tribunal proposes to refuse the proposal and pass an order under Rule 7(4) and publish the particulars of land in Form IV and such order passed by the Tribunal u/s 10 of the Act shall be communicated in writing to the declarant under Rule 7(6) of the Rules and after these proceedings become final the Tribunal is bound to follow the mandatory procedure prescribed

under the Act and the Rules framed thereunder and it is not open for the Tribunal to unilaterally declare that the possession had already been taken in respect of the extent of the land stated supra i.e., Acs.9-82 cents of wet land in Sy.Nos.660 and 661 of Yellayapalem village.

5. The learned Government Pleader for Land Ceiling had made submissions supporting the order of the Appellate Tribunal and had contended that the Primary Tribunal had given a specific finding after detailed discussion in paragraphs 1 to 12 that the declarant already had surrendered his lands to the extent of surplus due by him and hence no further notice under Form VI to him need be issued. In the light of the same it cannot be said that the disposal of the appeal in the terms specified in the order of the Appellate Tribunal cannot be said to be unsustainable.

6. Having heard both the counsel and having perused the order of the Primary Tribunal and also the order of the Appellate Tribunal, I am of the considered opinion that the observations made by the Appellate Tribunal in paragraph 5 of its order appear to be vague observations and it is always necessary and desirable that a Tribunal discharging quasi-judicial functions, apply its mind and record clear findings relating to the question raised before the Tribunal, be it the Primary Tribunal or the Appellate Tribunal, as the case may be. However, the question of surrender of lands itself appears to be in dispute and hence I feel it just in the circumstances of the case to give an opportunity to the Revision Petitioner-declarant to adduce necessary evidence in this regard and for this purpose the matter has to be remitted back to the Primary Tribunal i.e., Land Reforms Tribunal, Nellore.

7. Hence, the impugned order dated 31-12-1998 in L.R.A. No. 15/91 and also the order of the Primary Tribunal in C.C. No. 1317/KVR/75, dated 31-7-1989 are hereby set aside and the matter is remitted back to the Primary Tribunal - the Land Reforms Tribunal, Nellore, for the purpose of giving opportunity to the Revision Petitioner to adduce evidence on the aspect of surrender of the lands to the extent of the surplus due by him by issuing necessary notice to him in accordance with law and after following the procedure specified under the Act and the Rules framed thereunder. The Civil Revision Petition is allowed to the extent indicated above with the directions as specified supra. In the facts and circumstances of the case, no order as to costs.