
(1955) 12 AP CK 0022
In the Andhra Pradesh High Court
Case No : Appeal No. 44 of 1951

Illinka Venkatayya

APPELLANT

Vs

Adi Kishyya

RESPONDENT

Date of Decision : 23-12-1955

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 72
Hyderabad Tenancy and Agricultural Lands Act, 1950 — Section 99
Specific Relief Act, 1877 — Section 32, 34, 35, 37, 9

Citation : (1955) 12 AP CK 0022

Hon'ble Judges : Qamar Hasan, J;Kumarayya, J

Bench : Division Bench

Advocate : Anant Kishen Rao, for the Appellant; Sadashivrao and Sriram Pandit, for the Respondent

Final Decision : Allowed

Judgement

Qamar Hasan, J.—Illinka Venkatayya, the Plaintiff appeals from the judgment and decree dated 1-2-1951 of the District Judge, Mahbubnagar, whereby he reversed the decision of the Munsif of the same place, who had decreed the suit brought for perpetual injunction against the Defendant, Adi Kishtayya. The main ground on which the judgment appealed against before us rested was that the trial Court, because of the provisions of the Hyderabad Tenancy and Agricultural Lands Act, 1950, had no jurisdiction to try the suit.

2. There is on the record a registered lease-deed of 25th Khurdad 1358F, evidencing a demise of five agricultural plots for a term of twenty years by one Somyaji Sheoramlu in favour of the Appellant. There is also on record a sale-deed dated 13-6-1950 purporting to have been executed by one Alur Sheoramayya in favour of the Respondent conveying two of the plots leased to the Appellant.

3. The case set up by the Appellant was that on the strength of the said sale-deed, the Respondent was threatening to disturb his quiet possession of the two

disputed plots, which he could not do during the continuance of the tenancy.

4. The Respondent resisted the suit on various grounds, one of which being that as the alleged tenancy stands denied by him, the Appellant would have to prove it in order to succeed in the suit. Herein, therefore, came in the bar of jurisdiction enacted in Section 99 of the said Act. As already stated, the lower appellate Court had acceded to this contention and rejected the plaint u/s 72, Hyderabad Code of Civil Procedure.

5. Now Section 99 of the said Act provides:

(1) No civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Tahsildar, Tribunal or Taluqdar or by the Board of Revenue or Government.

(2) No order of Tahsildar, Tribunal or Taluqdar or of the Board of Revenue or Government made under this Act, shall be questioned in any civil or criminal Court.

The learned advocate for the Appellant relied on the case of Mohd. Abdul Khader v. Sedam Asru ILR (1955) Hyd 695: (AIR 1955 Hyd 271) (A), in support of his contention that the present suit was within the jurisdiction of the civil Court. In that case, a Bench of this Court had laid down that Section 99, Hyderabad Tenancy and Agricultural Lands Act operates as a bar to the jurisdiction of the civil Court only if the case is of such a nature as is required to be settled by the authorities mentioned in Sub-section (1), and that a suit u/s 9, Specific Relief Act was outside the purview of the Tenancy Act. There a suit u/s 9, Specific Relief Act was well within the competence of a civil Court.

6. The learned advocate for the Respondent on the other hand contended that no decree for perpetual injunction could be passed in favour of the Appellant unless the controverted fact of alleged tenancy is settled, decided or dealt with by the trial Court and herein therefore comes the bar of jurisdiction.

He cited the cases reported in - Maram Raj Trimalachari v. Aknoor Yelluga ILR (1954) Hyd 737: ((S) AIR 1955 Hyd 56)(B). and - Gante Patgi Pedda Jangadu v. Kondur Venkat Lakshmikant Rao ILR (1954) Hyd 832: AIR 1954 Hyd 236(C), to reinforce his contention. These cases were concerned with suits to which the provisions of Section 32, 34, 35 and 37 applied and it was therefore held that jurisdiction of the civil Court was ousted.

7. The present case is concerned with the grant of the equitable relief of perpetual injunction and no section in the Tenancy Act has been pointed out to us, which would cover suits of this nature. You cannot ask a man to go to the authorities mentioned in Section 99, Hyderabad Tenancy and Agricultural Lands Act to seek the equitable relief."

An injunction is an order made by the Court forbidding a person from doing a

certain act of a certain class upon pain of going to prison for an indefinite time as contemner of the Court. The Court would exercise that jurisdiction if the person claiming the relief has a prima facie right or title to the property. We are not prepared to hold that the provision relating to the issue of perpetual injunction is a closed chapter in so far as landlords and tenants of agricultural lands are concerned.

8. We, therefore, allow the appeal and remand the case to the lower appellate Court to be disposed of on merits. The costs of this appeal will abide the result.