
(2003) 02 AP CK 0123

In the Andhra Pradesh High Court

Case No : CRP No's. 1542 of 1997, 5021 and 5631 of 2000, 2471, 4897 and 6052 of 2001

Jaladi Seetharamamma and Another

APPELLANT

Vs

Sri Ramalingeswara Swami Temple

RESPONDENT

Date of Decision : 07-02-2003

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 82(5)

Citation : (2004) 6 ALD 739

Hon'ble Judges : V. Eswaraiah, J

Bench : Single Bench

Advocate : C.V. Mohan Reddy, in CRP No. 1542 of 1997, Vedula Venkataramana, in CRP No. 5021 of 2000, P.R. Prasad, in CRP No. 5632 of 2000, V.V. Prabhakara Rao, in CRP No. 2471 of 2001, Ch. Dhanmajaya, in CRP No. 4897 of 2001 and M. Vijaya Kumar, in CRP No. 6052 of 2001, for the Appellant; B.V.S. Sivarama Prasad in CRP No. 1542 of 1997, E.V. Bhagiratha Rao, for Respondent Nos. 2 to 4 in CRP No. 5021 of 2000, M. Lakshmana Sarma, for Respondent Nos. 2 and 3 in CRP No. 5632 of 2000, Vepa Suryanarayana Sastry in CRP No. 2471 of 2001 and Metta Chandra Sekhara Rao in CRP Nos. 4897 and 6052 of 2001, for the Respondent

Judgement

V. Eswaraiah, J.—All these matters arise out of certain proceedings initiated under the provisions of A.P. (A. A) Tenancy Act, 1956 (for short "the Tenancy Act") against the termination of the tenancy in respect of agricultural lands belonging to or give or endowed for the purpose of charitable or Hindu religious institutions or endowments as defined under the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Endowments Act").

2. In these cases, the lands held by the institutions were given on lease to private parties. The relationship between the landlord and tenant are regulated by the Tenancy Act until the advent of the Endowments Act. Therefore, various applications were made either by the landlord or tenant, as the case may be,

seeking the various reliefs in each of these applications before the Special Officer. In some cases reliefs were granted and in some cases the Special Officer declined the relief. Aggrieved by the same, the unsuccessful party appealed to the Appellate Authority concerned under the Tenancy Act. Depending on the result before the Appellate Authority, the unsuccessful party before the Appellate Authority preferred these civil revision petitions invoking the jurisdiction of this Court under Article 227 of the Constitution of India.

3. The State of Andhra Pradesh enacted Act No. 37 of 1987 called A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 which came into force with effect from 28.5.1987. Section 82 of the Endowments Act reads as under:

"(1) Any lease of agricultural land belonging to or given or endowed for the purpose of any institution or endowment subsisting on the date of commencement of this Act shall, notwithstanding anything in any other law for the time being in force, held by a person who is not a landless poor person stands cancelled.

(2) In respect of leases of agricultural lands held by landless poor persons for not less than six years continuously, such persons shall have the right to purchase such lands for a consideration of seventy five per centum of the prevailing market value of similarly situated lands at the time of purchase and such consideration shall be paid in four equal installments in the manner prescribed. Such sale may be effected otherwise than by tender-cum-public auction:

Provided that if such person fails to purchase the land in accordance with this sub-section or is unwilling to purchase the land, the lease shall be deemed to have been terminated.

Explanation :-For the purpose of this Sub-section "landless poor person" means a person whose total extent of land held by him either as owner or as cultivating tenant or as both does not exceed 1.011715 hectares (two and half acres) of wet land or 2.023430 hectares (five acres) of dry land and whose monthly income other than from such lands does not exceed two hundred and fifty rupees per mensem or three thousand per annum. For the purpose of computing the extent of land 0.404685 hectares (one acre) of wet land shall be equal to 0.309372 hectares (two acres) of dry land.

(3) The authority to sanction the lease or license in respect of any property or any right or interest thereon belonging to or given or endowed for the purpose of any charitable or religious institution or endowment, the manner which and the period for which such lease or license shall be such as may be prescribed.

(4) Every lease or license of any immovable property, other than the Agricultural land belonging to or given or endowed for the purpose of any charitable or religious institution or endowment subsisting on the date of the commencement of this Act, shall continue to be in force subject to the rules as may be prescribed

under Sub-section (3)."

4. The substance of the above section is that any lease of the agricultural land belonging to or given or endowed for the purpose of any institution or endowment prior to the date of commencement of the Endowments Act shall stand cancelled unless such a lease is made in favour of a landless poor person. By virtue of insertion of Sub-section (5) to Section 82 of the Endowments Act, the provisions of the A.P. (Andhra Area) Tenancy Act, 1956 shall not apply to any lease of land belonging to or given or endowed for the purpose of any charitable or religious institutions or endowment as defined in the Endowments Act.

5. The State of Andhra Pradesh by Ordinance 8 of 2002 amended the Tenancy Act. u/s 16 of the Tenancy Act, any dispute arising under the Tenancy Act between the landlord and the cultivating tenant in respect of the matter not otherwise decided by the Special Officer shall be decided by the Special Officer. As per the proviso to Section 16(1), the Tenancy Act has no application in relation to fixation of reasonable rent under Sub-clause (e) to Sub-section (1) of Section 74 of the Endowments Act. The said proviso has been omitted by the said Ordinance No. 8 of 2002. By the said Ordinance, Sub-clause (f) has been added after Clause (e) to Section 18(1) of the Tenancy Act, which reads as under:

"(f) to any agricultural land belonging to or given or endowed for the purpose of any charitable or Hindu Religious Institutions or endowments as defined by the provisions of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act."

Sub-section (2) of Section 18 is also omitted. By virtue of addition of Clause (f) to Section 18(1) of the Tenancy Act, the Tenancy Act shall not apply to any agricultural land belonging to or given or endowed for the purpose of any charitable or Hindu Religious Institutions or endowments as defined by the provisions of the Endowments Act. Thus, it is clear that no proceeding in respect of the leases of agricultural land either for the termination or continuance or for settlement of dispute relating to the institutions cannot be decided by the authorities under the Tenancy Act. Clause (f) to Section 18(1) of Tenancy Act is always deemed to have been and therefore the question of deciding any dispute in respect of agricultural lands of the institutions by the authorities under the Tenancy Act does not arise.

6. A Full Bench of this Court in *S. Narayana v. State of Andhra Pradesh* 1990 (1) ALT 237, declared that Section 82 of the Endowments Act as violative of Article 14 of the Constitution of India. In view of uncertainty of the validity of Section 82 of the Endowments Act in the interregnum, various proceedings before the authorities created under the Tenancy Act were continued. The said judgment of this Court has been set aside by the judgment of the Supreme Court in an appeal by the State in *State of Andhra Pradesh and Others Vs. Nallamilli Rami Reddi and Others*, , upholding the legality and validity of Section 82 of the Endowments Act. By virtue of the aforesaid ordinance and the judgment of the Supreme Court

referred to above, all the leases between parties in these petitions came to an end on the date of commencement of the Endowments Act and thereafter there is no landlord and tenancy relationship between the institution and the cultivator. A Division Bench of this Court in WP No. 28714 of 1998 dated 19.2.2002 also held that the provisions of A.P. (Andhra Area) Tenancy Act, 1956 have no application to the Endowments Act in view of the judgment of the Supreme Court referred supra. Therefore, the proceedings before the authorities under the Tenancy Act are not maintainable and the proceedings initiated either by the institution or by the cultivator are non-est in law.

7. For the aforesaid reasons I am of the opinion that all the proceedings initiated and orders passed under the Tenancy Act have become non-est in law and the parties are not entitled to enforce the orders passed under the Tenancy Act. Thus all the matters have become in fructuous.

8. It is for the respective parties to work out their remedies under the Endowments Act alone. The CRPs. are accordingly disposed of. No order as to costs.