

(2006) 09 AP CK 0033
In the Andhra Pradesh High Court
Case No : CRP No. 513 of 1998

Kareddy Manyamma

APPELLANT

Vs

State of A.P. and Another

RESPONDENT

Date of Decision : 26-09-2006

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 10(3)
Registration Act, 1908 — Section 17

Citation : (2007) 1 ALD 442 : (2007) 4 ALT 659

Hon'ble Judges : C.Y. Somayajulu, J

Bench : Single Bench

Advocate : P. Gangarami Reddy, for the Appellant;

Final Decision : Dismissed

Judgement

C.Y. Somayajulu, J.—Second respondent filed a declaration under the provisions of A.P. Land Reforms Ceiling on Agricultural Holdings Act 1973 (the Act). Initially he was found to be holding 1.1130 standard holdings in excess of the ceiling area on the notified date. After several appeals and revisions ultimately his holding was held to be 0.1822 standard holding in excess of the ceiling area. During the course of surrender proceedings also he raised several objections and ultimately, sine he failed to file a surrender statement, the Tribunal selected the lands for surrender and passed an order u/s 10(3) of the Act on 4-11-1988. Thereupon revision petitioners filed an appeal LRA No. 2/89 contending that she is the first wife of the second respondent and that her father-in-law gave her Ac. 21-23 guntas of land, from out of the land proposed to be taken in surrender, towards her maintenance at the time of the second marriage of the second respondent and had also executed a deed in her favour and since she is in possession of the said land, it cannot be taken possession of in the surrender proceedings. The Appellate Tribunal allowed the appeal preferred by the revision petitioner and remanded the case to the Primary Tribunal with a direction to give opportunity to the revision petitioner to prove her case. The revision petitioner took several

adjournments for producing evidence on her behalf. The Primary Tribunal adjourned the case to 16-1-1993 finally for final hearing. But as the revision petitioner did not choose to adduce evidence in support of her claim, the Primary Tribunal rejected the contention of the revision petitioner and the LRA No. 3/1993 preferred by the revision petitioner against that order also was dismissed. Hence this revision.

2. The contention of the learned Counsel for the revision petitioner is that since the father-in-law of the revision petitioner had given Ac.21-23 guntas of land in S.Nos.501 and 504, towards maintenance of the revision petitioner, and had also executed a deed in her favour, and since the second respondent, with a view to defraud the revision petitioner, is not opposing the surrender of the said land, the order accepting surrender of the said land, is unsustainable. He contended that various documents produced by the revision petitioner establish the factum of her possession and so the order dismissing the petition without considering the prayer of the revision petitioner to give her an opportunity to present her case is against to all canons of justice.

3. This revision against the second respondent, who is the declarant, was dismissed on 30-6-2006 for not taking out summons to him and that order became final. For that reason only this revision has to be dismissed. But I do not wish to dismiss the revision on technical grounds.

4. The order of the Tribunal, in the declaration filed by the second respondent, shows that the land that is being claimed by the revision petitioner was computed to his holding. There is nothing on record to show that the revision petitioner had ever objected to the second respondent showing the lands, that are allegedly given to her by her father-in-law, in his holding or for those lands being computed to his holding. The record received from the Tribunal shows that the lands in S.Nos.479, 482, 506, 511, 514 were standing in the name of the father of the second respondent and subsequent to his death they were mutated in the names of the second respondent, his brother and their mother. Along with the objection petition filed by her, opposing the surrender of the land alleged to be in her possession and enjoyment, revision petitioner did not choose to produce any document to establish her possession thereon. The deed allegedly executed by the father-in-law of the revision petitioner is said to be an unregistered document. Right to maintenance by handing over immovable property, can be done only by way of a registered document, in view of Section 17 of the Registration Act. Since the document being relied on by the revision petitioner, admittedly, is not a registered document, and since the land being claimed by the revision petitioner, admittedly, was computed to the holding of the second respondent, and as the second respondent, who carried the order of the Primary Tribunal and Appellate Tribunal to higher fora in several appeals, did not even whisper that the land being claimed by the revision petitioner, which was computed to his holding, does not in fact belong to him and is in the possession of the revision petitioner, it is clear that the revision petitioner is set

up by the second respondent to somehow wriggle out of the provisions of the Act and with a view to gain further time. Revision petitioner who was given several opportunities by the Tribunal to establish her case, having failed to utilize those opportunities cannot be heard to say that she was not given an opportunity to establish her case.

5. Therefore, I find no merits in this revision and hence the revision is dismissed. Parties are directed to bear their own costs.