
(1976) 08 AP CK 0023

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 341 of 1975

Karra Brahmeswara Sarma

APPELLANT

Vs

The Special Deputy Tahsildar, Land Reforms and Another

RESPONDENT

Date of Decision : 20-08-1976

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 2

Citation : AIR 1977 AP 158 : (1977) 2 APLJ 41

Hon'ble Judges : Ramachandra Raju, J

Bench : Single Bench

Advocate : G.R. Subbarayan, for the Appellant; Government Pleader for G.A.D., for the Respondent

Judgement

Ramachandra Raju, J.—The Civil Revision Petition arises out of the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, (hereinafter referred to as the Act.)

2. The petitioner is a declarant, who filed his declaration as provided u/s 8 of the Act. The declarant is a member of a Hindu joint family consisting of himself, his wife, three minor sons, one minor unmarried daughter and a major son. The total extent of the lands owned by the joint family, as computed by the Land Reforms Tribunal and also confirmed by the Appellate Tribunal, is 2.0209 standard holdings, out of which the major son is entitled to 1/5th share, which would come to 0-4042 standard holdings. The family unit consisting of the petitioner, his wife, three minor sons and one unmarried daughter, altogether six members, would be entitled to 1.2000 standard holdings. On this basis of the excess area which the family unit is having would come to 0-4167 standard holdings.

3. The total extent of the lands owned by the joint family was computed at 2.0209 standard holdings by the Land Reforms Tribunal and it was confirmed by the Land Reforms Appellate Tribunal in the appeal filed by the petitioner, treating Ac. 16-97 cents, out of the total extent of Ac. 33-54 1/2 cents, as "double crop

wet land", while the petitioner claimed it to be single crop wet land. As per the arguments submitted by Sri G. R. Subbarayan, learned counsel for the petitioner the main question for consideration in the C. R. P. is, whether the extent of Ac. 16.97 cents in dispute is "double crop wet land" or single crop wet land, as per the definitions given in the Act.

4. The expression "double crop wet land" is defined u/s 3(d) of the Act. It is convenient to extract it here to the extent it is relevant for our purpose :-

"(d) "double crop wet land" means any wet land registered as double crop or compounded double crop wet land in the land revenue accounts of the Government and includes any wet land not so registered:

(i) for which in accordance with any scheme of localisation being adopted under any Government source of irrigation, water is available in both the first and second crop seasons during a fasli year including the lands covered by Schedule B and Part II of Schedule C appended to the draft rules for the irrigation of lands in the Godavari Western, Eastern and Central deltas published in the Rules Supplement to Part II Extraordinary of the Andhra Pradesh, Gazette, dated the 16th July, 1962:

(ii) On which two crops per fasli year have or a dufassal crop has been raised with the use of water from a Government source of irrigation in any four fasli years within a continuous period of six fasli years immediately before the specified date;

(iii) which is capable of raising two crops per fasli year with the use of water from a tube well constructed by the Government or any persons;

Provided that:

(a) any land entitled to the supply of water from a Government source of irrigation and on which two irrigated crops per fasli year have or a dufassal crop has, not been raised with the use of water from such source, in any four fasli years within a continuous period of six fasli years immediately before the specified date, for want of supply of water from such source;

(b) any land for which in accordance with any scheme of localisation being adopted under any Government source of irrigation, water is made available during the second crop season solely in consideration of the likelihood of the loss of the first crop on account of submersion, salinity, tidal action or the like.

(c) any land to which water has been specifically supplied on a temporary basis for raising a second crop by diversion of water intended for eventual utilisation elsewhere.

(d) any land irrigated by a Government source of irrigation covered by proviso (iii) to Sub-section (1) of Section 5; shall not be deemed to be double crop wet land."

5. From a reading of the above definition it appears that the "double crop wet land" is one which is registered as double crop or compounded double crop wet land in the land revenue accounts of the Government. It also includes the land for which, under any scheme of localisation, adopted under any Government source of irrigation, water is available in both first and second crop seasons; and also the land from which two crops per fasli year have been raised with the use of water from the Government source of irrigation in any four fasli years within a continuous period of six fasli years immediately before the specified date and also the land, which is capable of raising two crops per fasli year with the use of water from a tube well constructed by the Government or any person.

6. Admittedly the Ac. 16-97 cents of land in question is not either in the first or third category as mentioned above and they are only lands for which water for the second crop cultivation would be provided by biennial rotation, i.e., second crop on the lands can be raised only once in two faslies. The six faslies prior to the specified date viz. 1-1-1975, are faslies 1378 to 1383. The first crop was raised on the lands in all the six faslies. According to the biennial rotation second crop also was raised during the faslies 1378, 1380 and 1382. In the land, to which water would be supplied for second crop biennially, the number of normal crops which could be raised on the lands during six faslies, would come to nine in number, viz. six first crops and three second crops. But admittedly an additional second crop was also raised in the land during the fasli 1381. Including this additional second crop, the number of crops raised in the land during these faslies came to ten. On this basis both the Tribunals classified the Ac. 16-97 cents as "double crop wet land". This view taken by the Tribunals is now questioned on the basis of proviso (c) in the definition, as extracted above.

7. According to proviso "c" any land to which water has been specifically supplied on a temporary basis for raising a second crop by diversion of water intended for eventual utilisation elsewhere shall not be deemed to be double crop wet land. Second crop was raised in Fasli 1381 on a temporary basis and not as of right, as by a notification the Collector, East Godavary, diverted the water intended for some other lands to be used for raising second crop to some other lands in which is included the land of Ac. 16-97 cents in question.

8. The notification of the Collector, East Godavary is dated 20-12-1971. The notification shows that during the second crop season of fasli 1381, certain channels under rotation in permanent zone in Godavary Central delta have been ordered to be closed for carrying out repairs to the drains. On that ground it has been decided to throw open an equivalent area for second crop for fasli 1381. Accordingly the lands mentioned in the schedule appended to the notification are allowed supply of water for second crop in fasli 1381. The additional areas were shown in the statement of the notification. The statement shows that two extents of Ac-12,70 cents under Narendrapuram channel and another extent of Ac. 387.86 cents under Ambajipet channel were thrown open as additional area for raising a second crop in that fasli. It is not in dispute that Ac. 16-97 cents in

question forms part of this Ac. 387.86 cents and that the second crop came to be raised in the land during that fasli on account of the permission granted and making water available to the land for raising a second crop as per the notification.

9. Therefore it is the case of the petitioner that as the water, which was used for raising the second crop during the fasli 1381 in the land was not intended for raising a second crop in that land and as it was intended only for raising a second crop in some other lands, proviso "c" directly applies to the case. This contention on the part of the petitioner was not found favour with the Tribunal. I am unable to understand the reasoning of the Appellate Tribunal in Para 7 of its judgment, to come to the conclusion that proviso "c" has no application to the facts of this case. The Appellate Tribunal said that the temporary supply of water to raise the second crop in the declarant's lands is only from the same source of water supply to the Central delta area but not from a different source of water supply intended for eventual utilisation elsewhere. I do not find any basis for this reasoning in the proviso "c". Proviso "c" does not mention that the water supply must be from a different source of water supply. What all the proviso says is that the water specifically supplied on a temporary basis for raising a second crop cannot be taken into consideration. From the notification of the Collector it is also clear that the water for raising the second crop during fasli 1381 was supplied on a temporary basis, because that water was not required for raising the second crop by rotation in the permanent zone areas as they were ordered to be closed for carrying out repairs to the drains. That supply was temporary for the reason that in future the lands would not be entitled to get water for the second crop in the corresponding fasli, because that water would go for utilisation in the lands., viz., the lands in the permanent zone areas, which were ordered to be closed during that fasli for carrying out repairs to the drains.

10. Having regard to the scheme of the Act, I think the intention of the Legislature in enacting proviso "c" is to exclude the lands from the definition of "double crop wet land" on which second crops are raised on a temporary basis without a right to raise the same on a permanent basis. In the Act provision is made u/s 5 , giving different extents for different classes of lands for computation of standard holding. For double crop wet lands lesser extents are provided for ceiling area than for single crop wet lands. That must have been presumably on the ground naturally that more income can be got from lands where two crops can be raised in a year than the lands on which two crops cannot be raised. Certainly double crop wet lands will be more valuable than single crop wet lands. Simply because in any particular year raising of second crop on a temporary basis is allowed that by itself will not enhance the value of the land, because that is only a temporary phase.

11. In these circumstances it appears clear that proviso (c) must have been intended to cover cases as the present one. The lands in question being biennial rotation lands they are not lands on which ten crops can be raised as of right in

any six faslies. From clause 2 (*italics*) read with proviso (c) in the definition of the wet land it appears clear that the legislature intended to bring under the definition of "double crop wet land" only those lands on which ten crops could be raised as of right during six faslies in question and not where ten crops could not be raised as of right, but happened to be raised on account of any permission granted on a temporary basis, which in itself does not in any way result in the more value of the land because of its non-permanent feature.

12. Accordingly it is declared that the land of Ac. 16-97 cents in question is a single crop wet land and not a double crop wet land.

13. The revision petition is accordingly allowed with costs. Advocate's fee Rs. 100/-. The case will be sent back to the Land Reforms Tribunal Amalapuram to determine the standard holding of the petitioner in the light of the declaration given above.

14. Petition allowed.