
(1996) 08 AP CK 0028

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 1917 of 1993

Konda Venugopala Raju

APPELLANT

Vs

State of A.P.

RESPONDENT

Date of Decision : 07-08-1996

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 10, 9

Citation : (1996) 3 ALT 679

Hon'ble Judges : K.B. Siddappa, J

Bench : Single Bench

Advocate : G. Krishna Murthy, for the Appellant; G.P. for Land Ceilings, for the Respondent

Final Decision : Dismissed

Judgement

K.B. Siddappa, J.—This Revision is filed against the Judgment passed in L.R.A.No. 23/90 on the file of Land Reforms Appellate Tribunal, West Godavari, Eluru dated 17-4-1993.

2. The petitioner was a declarant. His family was held to have holding land equivalent to 1.1358 standard holding in excess of the ceiling area on the notified date. A notice in Form No. 6 was sent directing him to furnish particulars of the lands to be surrendered. The appellant (sic. petitioner) filed appeal against the said order in L.R.A. No. 508/77 and it was allowed. Thereupon the Primary Tribunal recomputed the holding of the declarant and held that the declarant was holding 0.1930 standard holding in excess of the ceiling area. Aggrieved by the said decision the claimant filed Revision in C.R.P. No. 7571 /79 and the High Court by its order dated 14 8-1981 excluded Ac. 1-10 cents in S. No. 98 of Polasanapalli Village. Again the Tribunal recomputed the holding and determined the excess as 0.1615. At this juncture he filed this I.A. contending that the extent of land Acs. 5.66 cents in S. No. 65/1 has to be deleted. This land, according to him, is non-agricultural in nature as more than half of the area is

covered by Vagu and in the remaining land cattle shed , dung heaps, hay ricks and thrashing floor are located. He also requested for appointment of a Commissioner to make inspection of me land and to ascertain in the character. The Primary Tribunal by its order dated 24-3-1990 dismissed the petition holding that once the order has become final there is no question of revising the same and that the proceedings are at the surrender stage. It also held that the claimant himself proposed Acs. 5-66 cents in S. No. 65 of Polasanapalli on 31-5-1982. Aggrieved by the said order he preferred L.R.A. No. 23/90. The appellate Tribunal after considering the rival contentions dismissed the Appeal, giving elaborate reasons, with costs.

3. Aggrieved by the said judgment, the present Revision is filed by the claimant.

4. The learned counsel appearing for the Revision petitioner submitted that even though a final order u/s 9 is passed the land does not vest in the Government. In Acs. 5-66 cents covered by S. No. 65/1 there is a Vagu to its half extent and on the rest of the land there are cattle sheds, paddy granary, three manure pits, etc. Therefore, they are not agricultural lands to be surrendered. He also stated that this can be ascertained by appointing a Commissioner. He also stated that the land did not vest in the Government as compensation is not paid. Therefore the application can be allowed on merits.

5. In support of his contention he relied upon a judgment of the Supreme Court in Smt. Sreelatha Bhupal Vs. Govt. of Andhra Pradesh Represented by its Secretary Revenue Department, Hyderabad and others, . In this case it was held that Section 8 (as amended by Act 1 of 1972) provides for vesting of the land deemed to have been surrendered by the owner and that the terminology used in the heading of the Section itself indicates that even after determination of the surplus land which is deemed to have been surrendered vesting only takes place when something more is done and that is what is provided in this Section and that this Section authorised the Revenue Divisional Officer to take over the land on payment of compensation and that it is only after this taking over u/s 8 the land vests in the State, etc. It was also held "It is apparent that inspite of proceedings having come to an end under Sub-clause (3) of Section 7and that the compensation has been determined still the land remains with the holder who is enjoying the benefits out of the land until action u/s 8 is completed".

6. On the other hand the learned Government Pleader for Land Ceilings (Ms. Vidyavathi) submitted that once the order u/s 9 is passed that becomes final with regard to the lands sought to be surrendered. It cannot be reopened at any cost. In this case, the proceedings are at final stage. Already in C.R.P.No. 7571/79 filed by the claimant an extent of Ac. 1-10 cents was excluded on the ground that it is non-agricultural land. If really Ac. 5-60 cents in S. No. 66/1 is non-agricultural in nature, he would have raised this plea on the earlier occasion. As a matter of fact In earlier proceedings the petitioner was claiming Acs. 3.00 in R.S.No. 73 to be excluded on account of cattle sheds, hay ricks etc. The Commissioner was appointed to inspect S. No. 97. He did not find any hayrick.

However, he found a hayrick, cattle shed, and two sugarcane heaps in S. No. 98. Both these survey numbers were shown in the declaration filed by the declarant. The Commissioner appointed at the stage of Appeal no doubt stated that two cattle sheds, one paddy granary, three manure pits, two hay-ricks and Vagu are situated in S. No. 66/1. But it should be further shown that they were in existence even five years before passing of the Act. The lower appellate Tribunal gave elaborate reasons for dismissing the Appeal. Therefore, it is not liable to be set-aside.

7. In support of her contention she relied upon a Bench judgment of this Court in *Laxama Reddy and Others Vs. The State of A.P.*, . In this case it was held that when the holding of the declarant was decided and the same became final, the correctness of the same cannot be questioned in surrender proceedings and that the reclassification of the lands cannot be termed as clerical or arithmetical mistakes. She also relied upon a judgment of this Court in *Govt. of A.P. v. Veeranna* 1980 (1) ALT 53. In this case it was held:

"Once the order passed u/s 9 becomes final, the person holding the land in excess of the ceiling area is liable to surrender the land held in excess as laid in Section 10 of the Act. At that stage there is no provision for again revising the order passed u/s 9 which has become final. The proceedings u/s 10 are more or less in the nature of execution in which the correctness of the order u/s 9 cannot be canvassed".

In view of the above ratio, in her submission, the order which has become final u/s 9 cannot be disturbed.

8. I see considerable force in the submission of the learned Government Pleader for Land Ceilings. It is not in dispute that the order is already passed u/s 9 and that it has become final. In such a case, there is no question of disturbing the finding as to the nature of the lands. Admittedly, the proceedings are at Section 10 stage i.e., at the stage of surrender of the surplus lands. At that stage the petitioner cannot agitate on the question of non-agricultural nature of the lands already decided. The Supreme Court judgment relied upon by the petitioner is clearly distinguishable on facts. The Supreme Court was concerned with the vesting of the land, in that case. The Supreme Court held that unless the compensation is paid the land does not vest in the Government. Consequently they cannot distribute to the landless poor etc. It is not a direct authority to the proposition that the claimant can reagitate as to the nature of the lands even after passing of final order u/s 9 of the Act

9. On the other hand the judgments relied upon by the learned Government Pleader are directly on the point and the ratio therein is binding on me. Further, the petitioner himself admittedly did not mention these items in Annexure-IV of his declaration. It is pertinent to note that it is not the first time that he is agitating with regard to the nature of the land. In respect of S. No. 98, an extent of Ac 1-10 cents he raised a dispute on the ground that the land is non-

agricultural in nature, in C.R.P.No. 7571 /79 and it was excluded also. Again, the petitioner cannot reagitate on the same ground in respect of another piece of land. Further, the petitioner has to prove that the cattle shed, hay-ricks, etc, found by the Commissioner in S. No. 65/1 were in existence even five years prior to the passing of the Act. It is quite easy for him to construct these hay ricks, cattle sheds etc., and claim exemption on the ground that they are non-agricultural lands. If Vagu is there in part of S. No. 65/1 it is to the advantage of the claimant himself.

10. In this case, the proceedings are at final stages. Notice in Form No 6 is already issued on 10-2-1982 itself. At this late hour, the petitioner cannot be permitted to agitate on the ground that the land is non-agricultural in nature, etc.

11. The lower appellate Tribunal considered all these aspects elaborately and rightly dismissed the Appeal. The Judgment of the lower appellate Tribunal does not suffer from any illegality, impropriety or lack of jurisdiction.

12. Hence, the Civil Revision Petition is dismissed and in the circumstances, without any order as to costs.