
(2001) 07 AP CK 0066

In the Andhra Pradesh High Court

Case No : CRP No's. 3783, 3558 and 3529 of 1998

Marupuru Sundaramma

APPELLANT

Vs

State of Andhra Pradesh

RESPONDENT

Date of Decision : 02-07-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 23

Citation : (2001) 5 ALD 16 : (2001) 4 ALT 545

Hon'ble Judges : P.S. Narayana, J

Bench : Single Bench

Advocate : P. Sridhar Reddy, for the Appellant;

Final Decision : Allowed

Judgement

P.S. Narayana, J.—These civil revision petitions were directed against a common order made in LRA No.281 of 1977, 283 of 1977 and 284 of 1977 on the file of the I Additional District Judge, Nellore dated 4-5-1998. Here itself it may be stated that as far as the order made in LRA No.282 of 1977 by the same judgment it became final.

2. One Dasardarami Reddy, who is the father of the petitioners in CRP No.3783 of 1998 and CRP No.3529 of 1998 and the husband of the petitioner in CRP No.3558 of 1998 was the declarant in CC No.2219 of 1975 and the daughters and son were declarants in CC Nos. 2220, 2221 and 2222 of 1975 on the file of the Land Reforms Tribunal, Nellore under the provisions of the Andhra Pradesh Lands Reforms (Ceiling on Agricultural Holdings) Act, 1973 and during the pendency of proceedings before the Land Reforms Tribunal the said Dasaradarami Reddy died and his legal representatives were brought on record. The petitioners aggrieved by the order of the Land Reforms Tribunal preferred appeals in AC No.281 to 284 of 1977 before the Land Reforms Appellate Tribunal, Nellore and the Land Reforms Appellate Tribunal inasmuch as it had failed to consider that the daughters of Dasaradha Kami Reddy i.e., revision petitioners in CRP Nos.3529 of 1998 and 3783 of 1998 though were granted certain lands by

way of "pasupu kumkuma" under Ex.A.19 those lands were not excluded and aggrieved by the same they preferred CRP Nos.512 to 515 of 1979 on the file of this Honorable Court and this Honorable Court was pleased to allow the revisions partly by holding that the sales covered under Exs.A9 to A12 were established and directed for exclusion of the said extents from the computation of holding. While partly allowing the revisions the lands covered by even Ex.A19 were directed to be excluded and aggrieved by the same the State had carried the matter to Supreme Court and the Supreme Court in SLP Nos.5705-08 of 1985 dated 26-2-1996 was pleased to remand the matters to the Land Reforms Appellate Tribunal for reconsideration and on such remand the Land Reforms Appellate Tribunal by order dated 4-5-1998 had made the impugned order and aggrieved by the said order the present civil revisions are filed.

3. Mr. P. Sreedhar Reddy, learned Counsel appearing for the petitioners had contended that the impugned order passed by the Appellate Tribunal after remand is totally contrary to the directions given by the Apex Court in SLP Nos.5705-08 of 1985. The learned Counsel had drawn my attention to the relevant portion of the said order made by the Apex Court, which reads as follows:

A reasonable provision consistent with the dignity of the family may be made for the daughter for pasupu kumkuma. What would be the reasonable provision would be a question of fact to be decided by placing necessary material before the Appellate Tribunal. As contended by Sri Rangam this Court cannot decide that by merely on the basis of principle. Under there circumstances, the order of the High Court in CRP Nos.512-515/79, dated 1-8-1979 is set aside. We remit the appeals to the Appellate Tribunal for reconsideration of the limited question of surplus holdings.

Sri P. Sreedhar Reddy also contended that the Land Reforms Appellate Tribunal had traveled beyond its authority and jurisdiction in deciding the matter and in giving certain findings though the scope of the remand made by the Apex Court is for a limited purpose.

4. The learned Government Pleader while opposing the said contentions had drawn my attention to certain portions of paras 14, 15, and 16 of the impugned order and had contended that there cannot be "pasupu kumkuma" in favour of unmarried daughters and apart from it there is no material placed in this regard and hence the order of the Land Reforms Appellate Tribunal is perfectly valid and legal and it does not warrant any interference. The learned Government Pleader also had drawn my attention to a portion of the impugned order at para 16 which reads thus:

No material has been placed to show that there was custom in the family as to the providing of reasonable provision and by way of pasupu kumkuma to the minor daughters below aged 10 years. From the facts and circumstances the only reasonable presumption that can be drawn is that since some old stamp papers

of 1966 were available they were made use of for bringing out Ex.A.19 document. Ex.A19 was brought into existence only for the purpose of defeating the provisions of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 and nothing else. Absolutely there are no circumstances to provide any reasonable provision to the minor daughters in 1960 and that there is no satisfactory evidence to show that any such provision has been made in 1960.

5. After considering the contentions advanced by both parties, I am of the opinion that the impugned order cannot be sustained for the reasons stated *infra*. The findings recorded by the Appellate Tribunal are totally contrary to the order of remand made by the Apex Court. The Appellate Tribunal is expected to record the findings only for limited extent for which the matter was remanded back by the Supreme Court of India. But unfortunately the discussion made by the appellate Tribunal though it is an elaborate discussion it is irrelevant and the approach is totally erroneous. Furthermore, it appears from record that some further evidence had also been adduced by examining PWs.8 to 10. It is no doubt true that the Appellate Tribunal had observed that no sufficient material had been placed to prove these aspects. Be that as it may, in my considered opinion, the Appellate Tribunal is bound by the remand order and in law the Appellate Tribunal has to record the findings only in relation to the purpose for which the remand was made by the Apex Court and the Appellate Tribunal cannot travel beyond it. Hence I am of the view that the impugned order made in LRAs Nos.281 of 1977, 283 of 1977 and 284 of 1977 on the file of the 1st Additional District Judge, Nellore-cum-Chairman, Land Reforms Appellate Tribunal, Nellore cannot be sustained and the same is liable to be set aside. However, in the facts and circumstances of the case I feel that it will be just to remand these matters to Land Reforms Appellate Tribunal to record proper findings keeping in view the remand order made by the Apex Court dated 26-2-1996 if necessary after giving opportunity to place further material if the parties are so advised.

6. The civil revision petitions are accordingly allowed and the impugned order is set aside and the matter is remitted back to the Land Reforms Appellate Tribunal, Nellore. No costs.