

(1996) 04 AP CK 0084

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 473 of 1996

N. Muralidhar and Others

APPELLANT

Vs

Authorised Officer-Special Tahsildar, Land Reforms Tribunal

RESPONDENT

Date of Decision : 02-04-1996

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 — Rule 16(5)

Citation : (1996) 3 ALT 625

Hon'ble Judges : S.S. Hussaini, J

Bench : Single Bench

Advocate : M. Chandrasekhara Rao, for the Appellant; None appeared, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Hussaini, J.—In this revision the learned Counsel for the petitioners submits that the petitioners filed before the Land Reforms Tribunal, Anantapur a petition u/s 5 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1974 read with Rule 16(5)(b) of Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 contending that u/s 5 of the Land Reforms Act, it is the duty of the Tribunal to categorise and classify the lands as set out in the first Schedule to the Land Reforms Act and the Tribunal has to arrive at the correct standard holdings of the petitioners-declarants. Under Rule 5 of the Land Reforms Rules it is clearly stated that each land shall be placed in appropriate class in accordance with its classification as shown in the first Schedule to the Act. The extent of holding shall be determined in respect of each class of land in accordance with Section 5. But in the instant case, the Tribunal has not done so and by mistake the Tribunal has treated the non-agricultural lands as mentioned in the petition as agricultural lands. The extents mentioned in the petition i.e., Ac.47-35 cents in various survey numbers are to be treated as non-agricultural lands as the land is covered by boulders, rocks, cart-tracks, etc. and not fit for agriculture purpose. All the non-agricultural lands claimed in the petition are in

existence for more than 30 years i.e., prior to 1-1-1975, the notified date, and the petitioners sought for appointment of Commissioner to inspect the lands even to-day and they have not taken compensation. So this case is still pending.

2. The Land Reforms Tribunal appointed an Advocate-Commissioner to note the extent of the non-agricultural lands as prayed for by the petitioners in C.C. No. 2251/75-DMV. The Advocate-Commissioner after inspecting the schedule land in the presence of counsel for both the sides submitted his report and Mandal Surveyor had also filed his report in respect of each survey number in which the petitioners are having lands. The Land Reforms Tribunal after examining both the parties and on a consideration dismissed the petition of the petitioners on the ground that the petitioners have already surrendered the surplus lands to the Government long back. Aggrieved by the said order of the Land Reforms Tribunal, the petitioners preferred an Appeal.

3. The Land Reforms Appellate Tribunal, Anantapur, on a consideration of facts and placing reliance on the judgment of this Court reported in Laxama Reddy and Others Vs. The State of A.P., wherein it is held as under:-

"Suffice to say that this point was not raised by the petitioners in their application dated April 10, 1989 basing on which the present revision petition is filed. Having not raised this point in the application dated April 10, 1989 the petitioners are not entitled to raise such a plea for the first time in the revision petition. Apart from that it is to be noted that when it is the contention of the declarants that the lands covered by S. Nos. 42, 79, 109/7 of Chetlapotharam and Vailala villages are covered by boulders and hillocks and have to be deleted while computing the standard holding of the declarant, that is a point which they have to raise before the Primary Tribunal, the land reforms Appellate Tribunal and in the revision before the High Court, wherein the correctness or otherwise of the holdings of the declarants was finalised. It is also to be noted that even in the revision petitions wherein finally the holdings of the three declarants the father and two sons, were finalised and held that they were holding lands equivalent to 6.1039 in excess of the ceiling area, this point was not raised and consequently it is not open for them to raise this point now.

It is common knowledge that finality has to be attached to the judicial proceedings at every stage unless the finding is challenged in the appropriate forum. When the holding of the declarant was decided and when the said order was permitted to become final, it is not known as to how the same can be questioned in surrender proceedings and surrender proceedings shall be restricted only to the points that are permitted to be raised in the said proceedings. During the surrender proceedings also if the correctness or otherwise of the fixation of the holding of the declarant was permitted to question, there can never be any end or finality to the proceedings determining the holding of the declarant. By no stretch of imagination reclassification of the lands be termed as either clerical or arithmetical mistakes from the meaning of the said words quoted supra."

has held that the orders of the Land Reforms Tribunal have become final regarding the computation of holdings by the petitioners-declarants and as the petitioners did not raise either in the Land Reforms Tribunal or before the Land Reforms Appellate Tribunal or before the High Court of Andhra Pradesh in the revision with regard to the fact of exclusion of the non-agricultural lands in their holding, they are not entitled now to agitate afresh for the exclusion of non-agricultural lands in their holding by filing a petition Under Rule 16(5)(b) of A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974.

4. Now Mr. Chandrasekhara Rao vehemently contends basing his reliance on Rule 16(5)(b) of A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 which is to the following effect:-

"16(5). The Revenue Divisional Officer, The District Collector, Tribunal and the Appellate Tribunal shall have the power:-

(a) xxxxxx

(b) to correct any clerical or arithmetical mistakes in judgments or errors arising therein from any accidental slip or omission, either on its own motion or on the application of the parties."

that, though he admits that the point for exclusion of non-agricultural lands was not taken up by the petitioners before the Land Reforms Tribunal or the Land Reforms Appellate Tribunal or in the revision before the High Court which has become final, it is only a clerical or arithmetical mistake under which the point was not raised by the petitioners-declarants before the lower authorities and as such they are not precluded from raising it now at the time of surrender proceedings which are pending.

5. Rule 16(5)(b) of A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 enables only to correct clerical or arithmetical mistakes in judgments or errors arising therein from any accidental slip or omission either on its own motion or on the application of the parties. By any stretch of imagination, the exclusion of non-agricultural lands cannot be termed as clerical or arithmetical mistake in the Judgment or error arising therein from any accidental slip or omission. The petitioners have exhausted all the channels available under the Act challenging the orders of Land Reforms Tribunal and nowhere this point has been raised earlier. Apart from this, Rule 16(5)(b) of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 does not cover for reopening the case on fresh grounds for determining the holdings of the declarants.

6. Shri Chandrasekhara Rao, learned Counsel for the petitioners-declarants relied on a Division Bench Judgment of this Court in P. Satyanarayana Vs. The Land Reforms Tribunal and Others, wherein it is held that "Under Order 47, Rule 1, Sections 114 and 151 of Civil Procedure Code, the Court or Tribunal cannot review its own order or judgment unless there is statutory provision to that effect, but Court or Tribunal has inherent powers to recall orders obtained by

practising fraud or misrepresentation on it", and states that the Tribunal has inherent powers to correct the mistakes or omissions in the Judgments. I am afraid it is not the case of the petitioners that the earlier orders of the Tribunal were obtained by practising fraud or misrepresentation on it and that the final result of determination of the holdings is based on practising fraud or misrepresentation. In the circumstances, this judgment has no relevance to the facts in issue.

7. With regard to the submission of Mr. Chandrasekhara Rao there cannot be any dispute with regard to exclusion of non-agricultural lands such as rocks, cart-tracks, vankas and boulders from the holdings at the time of determination of the holdings, as held in this Court's Judgment in *Dulam Adinarayana Murthy v. State of Andhra Pradesh* 1978 (1) ALT 185 : An.W.R. 345. But once the petitioners have filed and exhausted the remedies available under the provisions of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1974 and holding has been finally determined by the High Court, they are not permitted to reagitate the points which were available to them under the provisions of the Act by way of appeal and revision.

8. In the above circumstances, the prayer of the petitioners does not come within the ambit and scope of Rule 16(5)(b) of A.P. Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974; as such the order passed by the Land Reforms Appellate Tribunal in L.R.A. No. 18/1989 dated 17-11-1995 is confirmed and no interference is called for. The revision is accordingly dismissed. No costs.