

(2013) 12 AP CK 0168

In the Andhra Pradesh High Court

Case No : Appeal Suit No. 2247 of 2000

P. Dharma Reddy and Others

APPELLANT

Vs

Anji Reddy and Others

RESPONDENT

Date of Decision : 26-12-2013

Acts Referred:

Citation : (2014) 3 ALD 504

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—An extent of Ac.55.53 guntas of land in survey Nos. 162, 107 and 130 of Bellapur village was acquired for the purpose of Singoor Project. Notification u/s 4(1) of the Land Acquisition Act, 1894 (for short the Act") was published on 27.12.1988. In the Award enquiry, the appellants on the one hand and the respondents 1 to 14 on the other hand presented their claims for compensation. While respondents claimed compensation exclusively for themselves, the appellants wanted the compensation to be divided into six shares and the amount representing two shares must be paid to them. In view of the rival claims before him, the Land Acquisition Officer referred the matter to the Court of District Judge, Medak at Sanga Reddy, u/s 30 of the Act. It was taken up as O.P. No. 105 of 1992. Through its order dated 19.06.2000, the trial Court rejected the claim of the appellants. Hence this appeal u/s 54 of the Act. Sri V. Ravi Kiran Rao, learned counsel for the appellants submits that the acquired property is part of land held by late Sanga Reddy whose daughter Gangamma was married to Thippareddy. He submits that through Gangamma, Thippareddy had four sons by name Narasimha Reddy, Kista Reddy, Sanga Reddy and Anji Reddy; and that their legal representatives are the respondents. He contends that after the death of Gangamma, Thippareddy married Hanumamma, two sons by name Dharmareddy, first appellant and Sai Reddy, deceased second appellant are born out of that wedlock. He submits that Thippareddy went as an illatum son-in-law to Sri Sanga Reddy and thereby he became the exclusive successor to the property. Alternatively, learned counsel submits that during his lifetime, Sri Sanga Reddy executed an agreement marked as Ex.A.35 wherein he

provided for share in his properties to the children of Thippareddy through Hanumamma, along with the children of Gangamma. Third contention of the learned counsel is that a partition has taken place between the children of Thippareddy in the year 1977-78 and that the land in survey numbers 107 and 130 fell to the share of his clients. He further submits that the fact that Ex.A.35 was acted upon is evident from the entries in the revenue record; and that the trial Court has taken a hypertechnical view of the matter and rejected the claim of the appellants.

2. Sri M. Rajamalla Reddy, Sri K. Raja Reddy and Sri Y. Ashok Raj, learned counsel for the contesting respondents on the other hand submits that the properties left by Sanga Reddy were inherited by the children of his daughter i.e. four sons named above and that the appellants who are the children of Thippareddy through Hanumamma have absolutely no right or claim vis-a-vis the acquired land. They submit that Ex.A.35 is a fabricated document and no mention thereof was made at any stage, prior to the filing of O.P. They further submit that Thippareddy has acquired fairly vast extent of land in Muqdoompur village and the whole of it is under the ownership and possession of the respondents. It is also their case that the two branches of the family" have filed declarations under Andhra Pradesh Land Reforms (Ceiling on Agriculture Holdings) Act, 1973 in respect of the lands held by them; It is stated that while under Exs.A.7 to A.11 the children of Gangamma filed declaration in respect of the lands in Bellapur village, the appellants filed declarations in Ex.A.13 in respect of Muqdoompur village. They submit that the so called partition pleaded by the appellants is only a fiction, and the trial Court has taken correct view of the matter.

3. The dispute in relation to the compensation for the acquired land is between the children of Thippareddy through two different wives. While the appellants are the children of Thippareddy through Hanumamma, the respondents represent the children of Thippareddy through Gangamma. The trial Court decided the OP. No. 105 of 1992 along with OP. Nos. 103 and 104 of 1992.

4. Only one point was framed for consideration viz., as to who are the title holders of the acquired land and entitled to be paid compensation?

5. The evidence on record comprised of depositions of P.Ws.1 to 9 and Exs.A.1 to A.48. On behalf of the Land Acquisition Officer, no evidence whatever was adduced. The claim of the appellants was rejected.

6. Therefore, point that arises for consideration in these appeals is whether the appellants have proved their entitlement to be paid the compensation for the acquired land or part thereof?

7. The undisputed fact is that the acquired lands are part of 144 acres of land held by late Sanga Reddy. He had a daughter by name Gangamma who was married to Thippareddy. The couple had four sons by name Narasimha Reddy, Kista Reddy, Sanga Reddy and Anji Reddy. Gangamma met with a pre-mature death in the year 1940 and she pre-deceased her father. After the death of

Gangamma, Thippa Reddy married Hanumamma and through her, the appellants 1 and 2 were born. In the natural course of things, the property of late Sanga Reddy would devolve upon his daughter, and from her it, would pass on to her sons. The fact that Gangamma pre-deceased Sanga Reddy would result in a direct devolution from Sanga Reddy to the children of Gangamma. In such a case, the question of Thippa Reddy or the appellants getting any share in that property does not arise.

8. To substantiate their claim vis-a-vis acquired land, the appellants relied upon three circumstances or events. The first is based upon Ex.A.35. This is stated to be an agreement executed by Sri Sanga Reddy in favour of the father of Hanumamma. The purport thereof is that in case Thippareddy marries Hanumamma, the mule children born out of that wedlock would have a share in the properties of Sanga Reddy along with the four sons of his daughter. This document was not registered and it does not fit into any specific mode of transfer. Even though a specific plea was raised by the respondents to the effect that Ex.A.35 is fabricated one, no effort was made by the appellants to prove it to the satisfaction of the Court. Being an extra ordinary document, that provided for conferment of rights which are not recognized under any system or personal law, it was required to be proved beyond any pale of doubt. That not having been done, the contention based upon the said document cannot be accepted. Though it is stated that the entries in the revenue records were made based upon Ex.A.35, they were only for a limited period and long before the land was acquired, the entries were corrected.

9. The second is that in an oral partition, that took place in the year 1977-78, and in that partition the land in survey Nos. 130 and 162 admeasuring Ac.44.44 guntas which was inherited from Sanga Reddy fell to the share of the appellants. No oral evidence is adduced to substantiate this plea. Added to that, the Exs.A.7 to A.11 and A.13 belie this contention. In this regard, it need, to be noted that on the advent of the Agricultural Land Ceiling Act, the appellants on the one hand and the respondents on the other hand filed separate declarations. The appellants filed Ex.A. 13 in relation to 55 acres of land held by Thippa Reddy in Muqdoompur village. The four sons of Gangamma or their L.Rs. did not file any declaration in respect of the said land. Similarly, in relation to the lands at Bellapur village that were held by Sanga Reddy, the appellants did not file any declaration. It is only the four sons of Gangamma that filed Exs.A.7 to A.11. These facts disclose that while the appellants did not claim any share over the properties that were left by Sanga Reddy; sons of Gangamma did not claim any share in the land, acquired by their father in Muqdoorpur village. Added to that, the appellants did not place any material before the Court to prove that the partition has taken place in a particular manner and that ever since then, the parties are enjoying the respective shares. More over Hanumamma, the mother of appellants 1 and 2, deposing as P.W.4 stated that in the family arrangement, her sons were allotted the land at Muqdoorpur village and the property left by Sanga Reddy was set apart, to be exclusively enjoyed by the children of

Gangamma.

10. The third plea is about illatum of Thippareddy by Sanga Reddy. Except raising this plea, the appellants did not file any documents before the trial Court to prove that the Thippa Reddy was ever treated as illatum son-in-law. In none of the documents relied upon by the appellants, there is any reference to this. If Thippa Reddy was the illatum son in law of Sanga Reddy, the same would have been mentioned in Ex.A.35. An illatum son in law becomes the exclusive successor of the properties of his father in law. In that event there would not have been any necessity for the execution of any document like Ex.A.35, the truth or otherwise thereof apart.

11. Viewed from any angle, the claim of the appellants cannot be sustained. Accordingly, the appeals are dismissed. The miscellaneous applications filed in these appeals shall also stand disposed of. There shall be no order as to costs.