

(1999) 06 AP CK 0105
In the Andhra Pradesh High Court
Case No : CRP No. 739 of 1996

Ponnam Chandrasekhara Rao and others	APPELLANT
Vs	
State of A.P. and another	RESPONDENT

Date of Decision : 18-06-1999

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 9
Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 — Rule 16(7)

Citation : (1999) 4 ALD 113 : (1999) 4 ALT 133 : (1999) 2 APLJ 139

Hon'ble Judges : C.V.N. Sastri, J

Bench : Single Bench

Advocate : Mr. P.S. R. Chandra Murthy, for the Appellant; Govt. Pleader for Land Ceiling, for the Respondent

Judgement

1. This Civil Revision Petition is filed against the order passed by the Land Reforms Appellate Tribunal, West Godavari at Eluru dismissing the application filed by the petitioners under Rule 16(7) of the A.P. Land Reforms Rules seeking to impiead themselves as respondeThursday, June 19, 2003nts in the main appeal, to enable them to putforth their claims before the Appellate Tribunal and adduce the evidence in support of their claim. The 2nd respondent filed a declaration under the provisions of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short "the Act") in respect of the lands held by his family unit. In the said declaration the 2nd respondent included the lands held by the petitioners herein describing them as his minor sons and wife. After due enquiry, a final determination u/s 9 of the Act was made determining the surplus land held by the family unit and notices were issued to the declarant to give a statement of lands proposed to be surrendered by him towards surplus land. At that stage, the declarant sought to question the final determination by raising a fresh point seeking the benefit of G.O. Ms. No.813 dated 19-6-1975. As the said objections raised by the declarant were negatived, he filed an appeal in LRA No.I77/1994 before the Appellate Tribunal. In the said appeal the petitioners

herein filed IA No.195/1994 under Rule 16(7) of the A.P. Land Reforms Rules contending that the 3rd petitioner was not the lawfully wedded wife of the declarant but she was only a kept mistress as the earlier marriage of the declarant with one Manimanjaram was still subsisting and it was not dissolved legally, and as such the petitioners cannot be treated as members of the family unit of the declarant and the lands held by them cannot be included in his holding and that the declarant has no right to surrender any of the lands belonging to the petitioners. The Appellate Tribunal rejected the said application holding that in the declaration filed by him the declarant described the petitioners as his legally wedded wife and minor sons, that the material on record clearly shows that even the 3rd petitioner herself claimed that she was the wedded wife of the declarant and described herself as such in the agreement of sale dated 20th September, 1967 executed by her and that she cannot blow hot and cold and at any rate she cannot be permitted to come up with this belated plea at this stage after completion of all the formalities. Learned Counsel for the petitioners assailed the order of the appellate Tribunal contending that Rule 16(7) of the A.P. Land Reform Rules enables the 3rd party to set up her claim at any stage of the proceedings and that the appellate Tribunal acted illegally and with material irregularity in dismissing the application filed by the petitioners without giving them any opportunity to adduce evidence in support of their claim. In support of his contentions learned Counsel for the petitioners sought to place reliance on the decision of this Court in Y. Narayana Murthy and others Vs. State of Andhra Pradesh and another, and in P. Manik Reddy v. State of Andhra Pradesh 1978 (1) APLJ 360. In the later decision relied upon by the learned Counsel for the petitioners, it was held that a woman married to a person who has already a wife living cannot be treated as a spouse and member of the family unit. There can be no dispute about the said proposition. But the question for consideration in the present case is whether the petitioner can be permitted to come forward with such a plea at this stage. Rule 16(7) of the A.P. Land Reforms Rules, no doubt, provides that "Any person, other than a party who satisfies the Revenue Divisional Officer, the District Collector, Tribunal or the appellate Tribunal that he has substantial interest in the matter, may at any time during the pendency of the proceedings, be permitted to appear and be heard and to adduce evidence and cross examine witnesses." The expression, "at any time during the pendency of the proceedings", can only mean during the pendency of the proceedings for final determination of the holding. When once the final determination of the holding has been completed and the surplus land held by the family is finally determined, at the stage of surrender proceedings, which are in the nature of execution proceedings, neither the declarant nor any other person can be permitted to set the clock back by raising fresh points from time to time. Otherwise, there can be no finality to the proceedings and the very purpose of the Act will be defeated. I do not think that the decision in Y. Narayana Murthy's case (supra) is of any assistance to the petitioners. The Court has neither considered nor decided the question whether a 3rd party can be permitted to come up with an application under Rule 16(7) of the A.P. Land

Reforms Rules at the surrender stage. There also, the application filed under Rule 16(7) was rejected by the Appellate Tribunal and the same was upheld by this Court by dismissing the revision petition. In the instant case the Appellate Tribunal on consideration of the material on record came to the conclusion that the 3rd petitioner herself claimed at an earlier stage that she was the legally wedded wife of the declarant and she cannot be permitted to blow hot and cold and to take an inconsistent plea at a later stage.

2. I do not therefore, find any error in the order of the lower Appellate Tribunal warranting interference of this Court. The Civil Revision Petition is without merit and it is accordingly dismissed. No costs.