
(2001) 02 AP CK 0040
In the Andhra Pradesh High Court
Case No : CRP No. 305 of 1998

Posina Ramachandraiah and others

APPELLANT

Vs

State of A.P. and Another

RESPONDENT

Date of Decision : 02-02-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 4

Citation : (2001) 2 ALD 502 : (2001) 2 ALT 424 : (2001) 1 APLJ 478

Hon'ble Judges : Satyabrata Sinha, C.J

Bench : Single Bench

Advocate : Mr. E. Subba Rao, for the Appellant; Government Pleader for Arbitration, for the Respondent

Judgement

Satyabrata Sinha, CJ

1. This application is directed against an order dated 28th August, 1997 passed by the Land Reforms Appellate Tribunal, East Godavari, Kakinada in LRA No.15 of 1996 whereby and whereunder the appeal preferred by the petitioner herein was dismissed.

2. In view of the point that involves for consideration of this Court, it is not necessary to state the fact of the matter in details. Suffice it to point that the declarant Ramachandraiah was held to be holding as on the notified date, 1.3557 standard holdings in excess of the ceiling limit by order dated 13-3-1976 passed by the Land Reforms Tribunal, Kakinada, East Godavari District. The matter went up to the Supreme Court of India and the order of the Land Reforms Tribunal was upheld. The declarant Ramachandraiah in the said land ceiling case died during the pendency of the proceedings before the Land Reforms Tribunal and his wife Venkataratnamma was brought on record. It appears that the said Venkataratnamma also died but without impleading her heirs and legal representatives as parties, the impugned order has been passed by the Land Reforms Tribunal. It appears from the order dated 29-6-1996 that the learned Land Reforms Tribunal was aware of the said fact. But without impleading the

heirs and legal representatives of Smt. Venkataratnamma, the order was only directed to be served as would appear from the following:

"As the declarant died long back, his wife Smt. Posina Venkataratnamma was added as legal representative and orders were issued. When this Tribunal order dated 15-4-1996 determining the holding of the declarant at 1.3557 SH in excess of the ceiling limit area, the same has been returned by the postal authorities as the wife of the declarant also died. Therefore, when referred the matter to the Mandal Revenue Officer, Pithapuram in his Ref. A.249/96 dated 21-6-1996, repeated that the persons noted from 2 to 5 are the legal representatives of the deceased declarant.

The above, 2 to 5 persons are added as legal representatives to the deceased declarant Sri Posina Ramachandrayya. The orders issued in LCC No. 1377 to 1380/PDP/75 dated 15-4-1996 shall be sent to the above legal representatives.

The legal representatives are directed to propose excess land for surrender within 15 days from the date of receipt of this order."

3. It is well settled that an order passed against a dead person is a nullity. It is not a case where a routine order was passed but by reason of the said order dated 15-4-1996, the excess lands at the hands of the declarant were computed. Had an opportunity been given to the legal representatives of the deceased declarant, they could have opted for some lands to be retained. As the matter was remitted back to the Primary Tribunal for determination, in the opinion of this Court, an opportunity should have been given to the Legal Representatives of the deceased petitioners, who have filed the present CRP. Therefore, they may be given an opportunity of hearing. For the reasons aforementioned, the impugned orders are set aside. The petitioners shall appear before the first respondent-authorised Officer, Land Reforms, East Godavari within four weeks from the date of receipt of a copy of this order. The petitioners shall co-operate with the Primary Tribunal in determination of the excess land. The petitioners should see to it that the respondent Nos.2 to 5 also appear before the first respondent within the aforementioned period. The CRP is accordingly allowed. No costs.