
(1981) 01 OHC CK 0011

In the Orissa High Court

Case No : Original Jurisdiction Case No. 387 of 1979

R. Satyanarayan Murty

APPELLANT

Vs

V. Raghu Ramarao and Others

RESPONDENT

Date of Decision : 06-01-1981

Acts Referred:

Orissa Land Reforms Act, 1960 — Section 15, 15(7), 36A

Citation : AIR 1982 Ori 244

Hon'ble Judges : R.N. Misra, Acting C.J.; N.K. Das, J

Bench : Division Bench

Advocate : S.C. Roy and P.V. Ramdas, for the Appellant; Y.S.N. Murty and Addl. Standing Counsel, for the Respondent

Judgement

Misra, Actg. C.J.

1. Challenge in this application for a writ of certiorari is to the order passed by the Additional District Magistrate (opposite party No. 3) in exercise of appellate jurisdiction under the Orissa Land Reforms Act (hereinafter referred to as the "Act"), Opposite party No. 1 claiming to be a tenant in respect of 1.60 acres of land as detailed in paragraph 2 of the writ petition moved the Revenue Officer by filing two separate applications u/s 36-A of the Act. The first application which was registered as O. L. R. Case No. 785 of 1976 related to 1.00 acre of land while the other registered as O.L.R. Case No. 1964 of 1976 was in respect of Ac.0.60 decimals of land. Pending adjudication of these two cases, the tenant-opposite party No. 1 also applied u/s 15 of the Act before the Revenue Officer in O. L. R. Case No. 2380 of 1976 for the self-same land on the allegation that the landlord was interfering with his cultivating possession. The tenant applied in the lastly instituted case u/s 15 (5) for an interim injunction and for the appointment of a receiver as provided u/s 15 (7) of the Act. On 4-12-1976, the Revenue Officer appointed the local Revenue Inspector as receiver of the standing crop. The petitioner took the stand that opposite party No. 1 was not his tenant and had no connection with the land. The Revenue Officer rejected

both the applications u/s 36-A of the Act Opposite Party No. 1 preferred appeals before the Additional District Magistrate challenging the rejection of the claim. The Revenue Officer thereafter rejected the application u/s 15 of the Act on the basis of his finding in the cases u/s 36-A of the Act and asked the receiver to hand over the property to the petitioner. By order dated 5-9-1978, the Additional District Magistrate directed :--

"On careful consideration of the facts as well as the law governing the matter I hold that pending final adjudication of the dispute in this court, the R. I. Bada Ramachandrapur should continue as the receiver for the lands. He is directed to lease out the lands in public auction for cultivation."

The petitioner challenged that direction in revision before the Revenue Divisional Commissioner without any success. Therefore, this writ application has been filed challenging the appellate order as sustained in revision.

2. The main contentions in support of the application are :--

(i) Section 15 (7) of the Act confers jurisdiction on the Revenue Officer only in the matter of appointment of receiver. The appellate court, therefore, had no jurisdiction to appoint or direct continuance of the appointment of receiver;

(ii) In view of the finding in the two applications u/s 36-A of the Act that there was no relationship of landlord and tenant between the parties, as long as the finding had not been vacated, it was not proper for the appellate authority to continue the appointment of receiver.

(iii) From the order of initial appointment of receiver, it is clear that the appointment was for the standing crop.

The receivership had, therefore, come to an automatic termination after the standing crop had been removed. There was, therefore, no scope for continuing the receiver by the Additional District Magistrate.

It is next contended that in a proceeding u/s 36-A of the Act, there is no scope for appointing a receiver and. therefore, the order of continuance of receiver was an act without jurisdiction.

3. None of the contentions seems to be valid. Every appellate Court, unless there be any restrictions in the relevant statute, has the same power as the original forum. If the Revenue Officer had the jurisdiction to appoint a receiver, the appellate authority in respect of a matter covered by Section 15 of the Act had equally a jurisdiction to appoint a receiver.

4. It is not disputed that in the proceedings u/s 36-A of the Act, the Revenue Officer had negated the existence of relationship of landlord and tenant, but that matter has not become final as appeals are pending challenging the orders of the Revenue Officer. When the Revenue Officer discharged the receiver, an independent appeal had been carried in O.L.R. Appeal No. 190 of 1978 in which the impugned order of continuance of receiver was passed. The Additional

District Magistrate was, therefore, not exercising the power of appointment/continuance of receiver in the appeals against the orders passed u/s 36-A of the Act, but had passed the order in the appeal against the direction discharging the receiver. The second contention has, therefore, no force at all.

5. In view of the clear order of the Revenue Officer in the matter of appointment of receiver, the appointment appears to have been initially for the standing crop of 1976 and by the time the appeal came before the appellate authority, there was actually no receivership in existence. The Revenue Officer's order dated 31-7-1978 runs thus :--

"On scrutiny it is seen that the receiver was appointed only for the standing crops on 4-12-76 by the Revenue Officer, Chhatrapur, So the handing over possession is not necessary. Inform the party accordingly. Inform R.I., Bada Ramachandrapur."

The impugned order directed continuance of the receiver. Since there was no receiver by then, strictly speaking a direction for continuance was not appropriate. We, however, do not think on that technical ground we should exercise our inherent jurisdiction and interfere in the matter. On the other hand, we are of the view that the appeal which has been pending for more than two years before the Additional District Magistrate should be disposed of along with the appeals arising out of the applications u/s 36-A of the Act. While declining to interfere in the matter, we call upon the Additional District Magistrate to dispose of all the three appeals by the end of Feb., 1981 without fail.

6. There would be no order for costs.

Das, J.

7. I agree.