
(2004) 03 AP CK 0027
In the Andhra Pradesh High Court
Case No : CRP No. 1938 of 1995

Ravipati Venkata Krishna Rao	Vs	APPELLANT
State of A.P. and Others		RESPONDENT

Date of Decision : 16-03-2004

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 10

Citation : (2004) 3 ALD 300 : (2004) 4 ALT 616

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : G. Krishna Murthy, for the Appellant; Government Pleader for Land Ceiling for Respondent No. 1, T.V.S. Prabhakara Rao and K.R.C. Mohan, of Respondent Nos. 3 to 11, for the Respondent

Final Decision : Partly Allowed

Judgement

L. Narasimha Reddy, J.—Petitioner held various extents of agricultural lands in two villages namely: Kurukallapalli and Dangeru of East Godavari District. As required under the provisions of the A.P. Land Reforms (Ceiling on Agricultural holdings) Act, 1973, (hereinafter referred to as "the Act") the petitioner filed a declaration. It was determined that he holds an extent of 0.5482 standard holding in excess of ceiling limits. Proceedings were initiated for taking possession of the excess land.

2. Petitioner offered to surrender his lands in Sy.Nos. 82 and 85/1 to 4 of Kurukallapalli and the land in Sy.No. 230/1 of Dangeru Village. The Land Reforms Tribunal (for short, LRT) refused to accept the said lands through its order dated 7.6.1990. Aggrieved thereby, the petitioner filed LRA No. 165 of 1990 before the Land Reforms Appellate Tribunal, East Godavari at Kakinada (for short, LRAT). The LRAT dismissed the appeal through its order dated 2.6.1994. Hence this revision.

3. Learned Counsel for the petitioner submits that the view taken by the LRT and

LRAT in the matter of accepting the lands offered cannot be sustained in law. He submits that once certain items of land were computed to the holding of the petitioner, there should not be any plausible objection to accept any of those items for surrender.

4. On the other hand, learned Government Pleader for Land Ceiling submits that the petitioner offered to surrender the lands, some of which were already acquired by the Government under the Land Acquisition Act and as regards others, transaction took place subsequent to the notified date. Learned Counsel for the Respondents 2 to 11 submit that their clients have purchased certain items of property from the petitioner, subsequent to the notified date and as such they cannot be permitted to be surrendered. It is also stated that suits and appeals are pending as regards these transactions.

5. The revision relates to the proceedings under the Act at the stage of surrender of excess lands. The petitioner offered to surrender the requisite extent in the survey numbers referred to above. It is not in dispute that these items of property were computed to the holding of the petitioner. Once the lands in the said survey numbers were computed to the holding of the petitioner, there should not be any objection for accepting those items for surrender.

6. In *Adusumalli Siva Narasimha Rao Vs. The State of A.P. and Others*, this Court held as under:

"there cannot be two sets of norms- one for purpose of inclusion in the holding and the other for acceptance in the surrender proceedings. By its very nature, the Act is an expropriatory legislation and strict interpretation of the provisions of the Act has to be made and strict compliance as to the procedure has to be ensured. In deviation from the same would encroach upon the rights of the declarants."

7. One of the reasons stated by the Tribunal for not accepting certain lands in certain survey numbers is that part of the land in the said survey numbers was acquired by the Government for the purpose of providing house sites. If that is so, it is not understandable as to how such a land was computed to the holding of the declarant. The first respondent cannot blow hot and cold as regards the nature of the acquisition by the Government. If it was of the view that despite such acquisition proceedings, the land could be computed to the holding of the petitioner, by the same logic, it should be prepared to accept when it is sought to be surrendered. Whatever may have the justification in such a view being taken by an official of the executive, the appellate Tribunal headed by a judicial officer of the rank of District Judge, ought not to have subscribed such a view. The reasoning furnished by the appellate Tribunal is rather curious. It was observed as under:

"I am of the view that the lower Tribunal cannot be compelled to accept the remaining extent in S.No. 85/2 which may not be suitable for assignment as agricultural land or house site."

In effect, the Presiding Officer has virtually re-written the law and added certain provisions, which are not contained in it. Therefore, the objection of the first respondent for accepting the lands on the ground that part of it was acquired by the Government cannot be sustained.

8. As regards the balance of the lands offered for surrender, the first respondent took the view that the same were sold by the declarant in favour of third parties subsequent to the notified date and they cannot be accepted. No exception can be taken to this objection. When the petitioner was held to be holding certain extent of land in excess, he is under obligation to surrender such excess of land. He cannot have the prerogative to sell portion of the land and offer the same for surrender. Such a course of action would defeat the very object of the Act. If the petitioner or his predecessors in title had created any rights in favour of third parties subsequent to the notified date, he is under obligation to surrender alternative lands. He cannot have the pleasure of inducting third parties in a piece of land and offer to surrender the same.

9. Hence, the CRP is partly allowed directing that the first respondent shall be under obligation to accept such of the lands which were computed to the holding of the petitioner, if offered for surrender, except where the petitioner or his predecessors in title have created any right in favour of third parties subsequent to the notified date. No costs.