
(2003) 04 AP CK 0039

In the Andhra Pradesh High Court

Case No : CRP No"s. 1469, 1601, 1611 and 1712 of 2002

Someswara Swami Vari Temple

APPELLANT

Vs

Degala Koteswara Rao

RESPONDENT

Date of Decision : 28-04-2003

Acts Referred:

Andhra Pradesh (Andhra Area) Tenancy Act, 1956 — Section 10, 16, 18, 18(1)
Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 82

Citation : (2003) 5 ALD 72 : (2003) 4 ALT 632

Hon'ble Judges : V. Eswaraiah, J

Bench : Single Bench

Advocate : C. Kodanda Ram, for the Appellant; J. Venugopal Rao, for the Respondent

Final Decision : Allowed

Judgement

V. Eswaraiah, J.—Since the petitioner is common and the question involved in all these Civil Revision Petitions is identical, therefore, they are clubbed, heard together and are being disposed of by this common order.

2. The petitioner is the landlord-temple. It owns an extent of Acs.22-00 of land in S. No. 197 in Nandigama Village of Sattenapalli taluk. Admittedly, the petitioner-temple is the owner of the said lands in question and the said lands auctioned in favour of different persons, who are respondents herein.

3. According to the respondents, they have been cultivating the lands from 1991 onwards, as the lands were having taken in the auction on lease. When the cultivating ryots of the said lands were sought to be auctioned in favour of the highest bidder, the respondents filed different ATCs., under Sections 10 and 16 of A.P. (Andhra Area) Tenancy Act seeking for a declaration that they are the cultivating tenants and they are entitled to all the benefits under the A.P. Tenancy Act and accordingly injunctions were granted in their favour and against the petitioner-temple from conducting the auction of the leasehold rights and the

said ATCs were allowed by the Special Officer. Against the said order, the temple filed appeals before the Appellate Authority and all the appeals were dismissed upholding the order of the Special Officer. Aggrieved by the orders of the Appellate Authority, these Civil Revision Petitions are preferred invoking the jurisdiction of this Court under Article 227 of the Constitution of India.

4. This Court in CRP No. 1542 of 1997, C.R.P. Nos. 5021, 5632 of 2000 and C.R.P. Nos. 2471 and 4897 of 2001, dated 7-2-2003, held that:

"The State of Andhra Pradesh enacted Act No. 37 of 1987 called A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 which came into force with effect from 28-5-1987. Section 82 of the Endowments Act reads as under.

(1) Any lease of agricultural land belonging to or given or endowed for the purpose of any institution or endowment subsisting on the date of commencement of this Act shall, notwithstanding anything in any other law for the time being in force, held by a person who is not a landless poor person stands cancelled.

(2) In respect of lease of agricultural lands held by landless poor persons for not less than six years continuously, such person shall have the right to purchase such lands for a consideration of seventy five per centum of the prevailing market value of similarly situated lands at the time of purchase and such consideration shall be paid in four equal instalments in the manner prescribed. Such sale may be effected otherwise than by tender-cum-public auction;

Provided that if such person fails to purchase the land in accordance with this sub-section or is unwilling to purchase the land, the lease shall be deemed to have been terminated.

Explanation :--For the purpose of this sub-section "landless poor person" means a person whose total extent of land held by him either as owner or as cultivating tenant or as both does not exceed 1.011715 hectares (two and half acres) of wet land or 2.023430 hectares (five acres) of dry land and whose monthly income other than from such lands does not exceed two hundred and fifty rupees per mensem or three thousand per annum. For the purpose of computing the extent of land 0.404685 hectares (one acre) of wetland shall be equal to 0.309372 hectares (two acres) of dry land.

(3) The authority to sanction the lease or license in respect of any property or any right or interest thereon belonging to or given or endowed for the purpose of any charitable or religious institution or endowment, the manner which and the period for which such lease or license shall be such as may be prescribed.

(4) Every lease or license of any immovable property, other than the Agricultural land belonging to or given or endowed for the purpose of any charitable or religious institution or endowment subsisting on the date of the commencement

of this Act, shall continue to be in force subject to the rules as may be prescribed under Sub-section (3).

The substance of the above section is that any lease of the agricultural land belonging to or given or endowed for the purpose of any institution or endowment prior to the date of commencement of the Endowments Act shall stand cancelled unless such a lease is made in favour of a landless poor person. By virtue of insertion of Sub-section (5) to Section 82 of the Endowments Act, the provisions of the A.P. (Andhra Area) Tenancy Act, 1956 shall not apply to any lease of land belonging to or given or endowed for the purpose of any charitable or religious institutions or endowment as defined in the Endowments Act.

The State of Andhra Pradesh by Ordinance 8 of 2002 amended the Tenancy Act. u/s 16 of the Tenancy Act, any dispute arising under the Tenancy Act between the landlord and the cultivating tenant in respect of the matter not otherwise decided by the Special Officer shall be decided by the Special Officer, As per the proviso to Section 16 (1), the Tenancy Act has no application in relation to fixation of reasonable rent under Sub-clause (e) to Sub-section (1) of Section 74 of the Endowments Act. The said proviso has been omitted by the said ordinance No. 8 of 2002. By the said Ordinance, Sub-clause (f) has been added after Clause (e) to Section 18(1) of the Tenancy Act, which reads as under:

"(f) to any agricultural land belonging to or given or endowed for the purpose of any charitable or Hindu Religious Institutions or endowments as defined by the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act".

Sub-section (2) of Section 18 is also omitted. By virtue of addition of Clause (f) to Section 18 (1) of the Tenancy Act, the Tenancy Act shall not apply to any agricultural land belonging to or given or endowed for the purpose of any Charitable or Hindu Religious Institutions or Endowments as defined by the provisions of the Endowments Act. Thus, it is clear that no proceeding in respect of the leases of agricultural land either for the termination or continuance or for settlement of dispute relating to the institutions cannot be decided by the authorities under the Tenancy Act. Clause (i) to Section 18 (1) of Tenancy Act is always deemed to have been and therefore the question of deciding any dispute in respect of agricultural lands of the institutions by the authorities under the Tenancy Act does not arise.

A Full Bench of this Court in *S. Narayana v. State of Andhra Pradesh* 1990 (1) ALT 237, declared that Section 82 of the Endowments Act, as violative of Article 14 of the Constitution of India. In view of uncertainty of the validity of Section 82 of the Endowments Act in the interregnum, various proceedings before the authorities created under the Tenancy Act were continued. The said judgment of this Court has been set aside by the judgment of the Supreme Court in an appeal by the State in *State of Andhra Pradesh and Others Vs. Nallamilli Rami Reddi and Others*, upholding the legality and validity of Section 82 of the Endowments Act.

By virtue of the aforesaid Ordinance and the judgment of the Supreme Court referred to above, all the leases between parties in these petitions came to an end on the date of commencement of the Endowments Act and thereafter there is no landlord and tenancy relationship between the institution and the cultivator. A Division Bench of this Court in WP No. 28714 of 198, dated 19-2-2002 also held that the provisions of A.P. (Andhra Area) Tenancy Act, 1956 have no application to the Endowments Act in view of the judgment of the Supreme Court referred supra. Therefore, the proceedings before the authorities under the Tenancy Act are not maintainable and the proceedings initiated either by the Institution or by the cultivator are nonest in law".

5. From the above, it is, therefore, clear that the proceedings initiated by the respondents under the Tenancy Act are not maintainable and the Special Office has entertained the ATCs filed by the respondents without any authority of law and without any jurisdiction. The lower Appellate Authority has illegally dismissed the appeals filed by the temple.

6. Accordingly, the order passed by the Special Officer, dated 23-12-1996 in ATC Nos. 9, 15, 16 and 8 of 1996 are set aside and the consequential order passed by the Appellate Authority, dated 17-1-2002 in ATA Nos. 26, 27, 28 and 25 of 1998 are set aside and the Civil Revision petitions are allowed. No costs.