
(2005) 06 AP CK 0042
In the Andhra Pradesh High Court
Case No : SA No. 1457 of 2004

Sri Valeswara Swamy Temple	Vs	APPELLANT
Vishnumolakala Subhash Chandra Bose and Others		RESPONDENT

Date of Decision : 30-06-2005

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 82, 83, 84, 85

Citation : (2005) 5 ALD 266

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : M. Adinarayana Raju, for the Appellant; Ravindra Babu, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—This second appeal is preferred by Sri Valeswara Swamy Temple, Chavali Village of Guntur District, through its Executive Officer.

2. The appellant owns an extent of Ac.21-00 of wet land. It conducted auction of leasehold rights on 14-7-2000. Respondents 7 to 12 herein are said to have emerged as the highest bidders for a sum of Rs. 2,00,000/-. Respondents 1 to 6 (for short "the respondents") filed O.S.No. 399 of 2000, in the Court of the Principal Junior Civil Judge, Tenali, for the relief of perpetual injunction, restraining the respondents 7 to 12, from interfering with their possession over the suit schedule property viz. Ac.21-00, in various survey numbers. They pleaded that they are the lessees from the chief archaka of the temple, by name Brahman Bhotlu, from about 1980 onwards, and have referred to various proceedings that have ensued in respect of the land. Ultimately, they pleaded that respondents 7 to 12 were trying to interfere with their possession of the land, without any basis.

3. The respondents 7 to 12 remained ex parte. The appellant get itself impleaded as defendant No. 7. It pleaded that there did not exist any tenancy in favour of

the respondents, in respect of the land. It was also alleged that on an earlier occasion, the respondents initiated proceedings under the Andhra Pradesh (Andhra Area) Tenancy Act, 1956, for declaration of their rights, and the same ended against them.

4. The Trial Court dismissed the suit, through its judgment dated 28-10-2003. Aggrieved thereby, the respondents filed A.S. No. 128 of 2003, in the Court of Additional Senior Civil Judge, Tenali. Through its judgment dated 7-9-2004, the lower Appellate Court held that even if the respondents are treated as encroachers, they can be evicted, only by initiating proceedings under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short "the Act"), and till then, their possession cannot be interfered with.

5. Sri M. Adinarayana Raju, learned Counsel for the appellant, submits that there never existed any relationship of tenant and landlord, between the appellant and respondents. He submits that their earlier attempt to get their rights declared became futile, and despite the same, they entered into the land highhandedly, on the strength of temporary injunction obtained in the suit. He further contends that even where valid tenancy is existed, in respect of the agricultural lands held by Religious Institutions, that stood terminated by operation of Section 82 of the Act, and in that view of the matter, there was no basis for the lower Appellate Court to decree the suit.

6. Sri Ch. Ravindra Babu, learned Counsel for the respondents, on the other hand, submits that though the tenancy of his clients was not recognized specifically, the fact remains that they continued in the possession and enjoyment of the same for the past 20 years. He contends that be it u/s 82 or any other provision of the Act, the appellant was under obligation to initiate proceedings, and till such a course is adopted, his clients could not be evicted from the land.

7. On the basis of the pleadings before it, the Trial Court framed only one issue, viz. whether the respondents were entitled for injunction. On behalf of the respondents, PWs.1 to 4 were examined and Exs.A-1 to A-37 were marked. On behalf of the appellant, DW-1 was examined and Exs.B-1 to B-20 were marked. The Trial Court recorded a finding that the Exs.A-1 to A-36, which are said to be the receipts passed by Archakas, are not binding on the appellant and they do not confer any rights on the respondents. It has also referred to the earlier proceedings that ensued between the parties, and ultimately held that the respondents do not have any right over the suit schedule property. The lower Appellate Court framed the following points:

(1) Whether the plaintiff's were in possession of the plaint schedule property as on the date of filing suit and whether there is any erroneous conclusion by the Trial Court with regard to that factum of possession of the plaintiffs over the plaint schedule property?

(2) Whether the 7th defendant/7th respondent has any necessity to follow the procedure prescribed under Endowment Act to remove the encroachers from the temple property/plaint schedule property?

(3) To what relief?

8. On point No. 1, the lower Appellate Court took the view that irrespective of the nature of possession, the plaintiffs can be said to be in enjoyment of the property, as on the date of filing of the suit. On point No. 2, it took note of the provisions of Sections 82 and 83 of the Act, and ultimately held that till proceedings are initiated under Sections 83, 84 and 85 of the Act, the respondents cannot be evicted.

9. The Trial Court recorded a categorical finding that there did not exist any relationship of tenant and landlord between the appellant and respondents, and it took note of the fact that the leasehold rights of the properties were put to auction, in accordance with the provisions of the Act. The lower appellate Court did not assign any reasons in disturbing this finding. As regards the possession, the judgment of the lower Appellate Court lacks clarity. Unless the so-called possession is traceable to any specific lease or acts of encroachment, the finding cannot be based on surmises. It is not in dispute that the earlier set of proceedings, initiated by the respondents, ended against them. It has emerged that the archakas, from whom the respondents claim tenancy, did not have any right, vis-a-vis the land.

10. The finding of the lower Appellate Court on point No. 2 is equally unsustainable. Section 82 of the Act brings about a statutory termination of tenancy, in respect of agricultural lands held by temples. The rules framed by the Government, for the purpose of grant of lease of such lands, mandate that the leasehold rights can be granted only by conducting auction. Such an auction was held on 14-7-2000, wherein the respondents 7 to 12 emerged as the highest bidders. Section 82 of the Act protects interest of the landless poor. The lower Appellate Court extracted the entire Section 82, and took the view that it does not apply to the facts of the case.

11. Even where agricultural lands of Religious Institutions are held by landless poor persons as tenants, they are not entitled to squat on the property. They are required to submit applications before the jurisdictional Assistant Commissioner. It is only when they are recognized as landless poor, that they are permitted to continue in possession, subject to certain conditions. Admittedly, the respondents did not make such application, nor did they claim the status of landless poor.

12. Section 83 of the Act applies to such of the properties, which are not covered by Section 82. When the statute brings about an automatic termination and when the provision was upheld by the Supreme Court, there was no justification for the lower Appellate Court in granting temporary injunction and depriving the rights of temple on the valuable property of Ac.21-00. This Court granted an order dated 20-1-2005, imposing certain conditions on the respondents. It is

represented that the conditions have not been complied with.

13. For the foregoing reasons, the second appeal is allowed, and the decree and judgment of the lower Appellate Court are set aside. Consequently, the decree of the Trial Court, dismissing the suit, stands upheld. There shall be no order as to costs.