
(1993) 01 SC CK 0024

In the Supreme Court Of India

Case No : Civil Appeal No's. 3187-3193 of 1989

State of Andhra Pradesh and Others

APPELLANT

Vs

M. Lakshmi Devi and Others

RESPONDENT

Date of Decision : 13-01-1993

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 12(4), 12(6)

Citation : (1993) 1 ALT 64 : (1993) 1 JT 274 : (1993) 1 SCALE 69 : (1993) 2 SCC 421 : (1993) 1 SCR 179

Hon'ble Judges : L. M. Sharma, C.J.; S. P. Bharucha, J.; S. Mohan, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

1. These appeals raise an interesting question relating to the interpretation of Section 12 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (hereinafter referred to as 'the said Act'). The appeals, by the State of Andhra Pradesh, are directed against the judgment and order of a learned Single Judge of the Andhra Pradesh High Court whereby he dismissed the revision petitions filed by the appellants against the order of the Andhra Pradesh Land Reforms Appellate Tribunal directing the appellants to hand over possession of 294 acres of land to the respondents.

2. Briefly stated, these are the relevant facts.

3. The respondents entered into an agreement to sell the land in appeal, admeasuring 294 acres, to M/s. Challapalli Sugar Limited and in pursuance thereof handed over possession of the said land to the said company. The said company filed a declaration under the provisions of the said Act declaring surplus land held by it, which included the said land. The respondents contented that since the title to the said land had not passed to the said company they remained the owners thereof and were entitled to the reversion of its possession to them u/s 12(4) of the said Act. The Primary Land Tribunal held against the

respondents but the Appellate Tribunal and the High Court held in their favour.

4. It is necessary to note the provisions of Section 3(i) of the said Act which defines "holding" to mean, "the entire land held by a person as an owner; as a limited owner; as a usufructuary mortgagee; as a tenant; who is in possession by virtue of a mortgage by conditional sale or through part performance of contract for the sale of land or otherwise...." Section 12 of the said Act reads thus:

12. Revision and vesting of land surrendered: Where any land is surrendered or is deemed to have been surrendered under this Act by any usufructuary mortgagee or tenant, the possession of such land shall subject to such rules as may be prescribed revert to the owner.

(2) The owner to whom the possession of the land reverts under Sub-section (1) from an usufructuary mortgagee shall be liable to pay the mortgage money due to usufructuary mortgagee in respect of that land with interest at the rate of six per cent per annum from the date of such revision, and the said land shall continue to be the security for such payment.

(3) The owner to whom the possession of the land reverts under Sub-section (1) from a tenant shall be entitled to receive from the tenant rent due for the period ending with the last crop harvested by such tenant.

(4) Where any land is surrendered or is deemed to have been surrendered under this Act by any person in possession by virtue of a mortgage by conditional sale or through a part performance of contract for sale or otherwise, the possession of such land shall subject to such rules as may be prescribed, revert to the owner.

(5) The owner to whom fee possession of the land reverts under Sub-section (4) shall be liable to discharge the claim enforceable against the land by person in possession: and the land surrendered shall if held as a security, continue to be the security.

(5A) Where any land is surrendered or is deemed to have been surrendered under this Act by any limited owner, the possession of such land shall, subject to such rules as may be prescribed; revert to the person having a vested interest in the remainder and such person shall be liable to discharge the claim enforceable against the land by the limited owner; and the said land shall, if held as a security, continue to be the security (Sub-section 5-A is added as per Amendment Act No. 10 of 1977).

(6) Notwithstanding anything contained in this section, where any land surrendered by an usufructuary mortgagee or a tenant or a person in possession referred to Sub-section (4), is also a land surrendered by the owner, the provisions of Section 11 shall apply.

Section 11 states that where any land is surrendered or is deemed to have been surrendered under the said Act by an owner, the Revenue Divisional Officer may,

subject to such rules as may be prescribed, by order, take possession or authorise any officer to take possession of such land, which shall thereupon vest in the Government free from all encumbrances from the date of such order. Section 10(5) entitles a Tribunal to refuse to accept the surrender of any land in the circumstances therein stated.

5. It was contended by learned Counsel for the appellants that the Appellate Tribunal was in error in directing the appellants to hand over to the respondents possession of the aforementioned 294 acres of land. In his submission, there had been a surrender of the said land and the appellants were under no obligation to return it to the respondents.

6. Learned counsel for the respondents urged, on the other hand, that the said Act and the Rules framed thereunder obliged the appellants to hand back to respondents the possession of the said land and it was then for the respondents to decide which particular part of their holding they should surrender as surplus, if any, under the terms of the said Act.

7. For our purpose what is relevant is that the said land was surrendered as surplus by the said company, which was in possession of the same by reason of part performance of an agreement of sale with the respondents. Sub-section (4) of Section 12 states that "where any land is surrendered or is deemed to have been surrendered under this Act by any person in possession...through a part performance of contract for sale...the possession of such land shall, subject to such rules as may be prescribed, revert to the owner". The exception that is made to this requirement is set out in Sub-section (6) of Section 12 which states that it is only when land which is surrendered by the person in possession through a part performance of contract for sale is also surrendered by its owner that the provisions of Section 11 shall apply, that is to say, it shall vest in the Government.

8. It will be remembered that by reason of Section 3(i) the owner is obliged to declare land that he has agreed to sell as his holding, as is the person who is in possession of it through part performance of an agreement of sale. Where that land is surrendered as surplus both by the owner and the party in possession of it, the provisions of Section 11 become applicable and the land vests in the Government; but where the land is surrendered by the party in possession of it through part performance of an agreement of sale but it is not also surrendered by the owner, the provisions of Sub-section (4) of Section 12 apply and the possession of the land must revert to the owner.

9. It will be noted that possession shall revert to the owner "subject to such rules as may be prescribed". The relevant rule in this behalf is Rule 9 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974. Sub-rule (1) thereof states that where any land is surrendered or is deemed to have been surrendered under the said Act by, inter alia, a person in possession through part performance of a contract for sale, the possession of such land shall, as soon as

may be after a seasonal crop on the land is harvested, revert to the owner, except in a case where the owner himself surrenders such land as surplus under the provisions of the Act, whereupon it shall vest in the Government free from all encumbrances. Sub-rule (2) entitles the owner to apply to the Revenue Divisional Officer for being put in possession of the land if the party who is in possession of it, inter alia, by virtue of part performance of a contract for sale fails to deliver its possession to him. The Revenue [Divisional] Officer is then obliged, after giving to the party in possession an opportunity of making a representation, to authorise an officer to take possession of the land and deliver it to the owner. Having regard to the fact that Sub-section (4) of Section 12 refers to such rules as may be prescribed and terms of the prescribed rule, we are left in no doubt as to the correctness of the interpretation that we have placed upon Section 12.

10. We may mention that this Court in *State of Andhra Pradesh Vs. Mohd. Ashrafuddin*, and in *Yedida Chakradhararao (Dead) through his Lrs and Others Vs. State of Andhra Pradesh*, had indicated the same interpretation.

11. In the result, the appeals fail and are dismissed. No order as to costs.