
(2001) 09 AP CK 0059
In the Andhra Pradesh High Court
Case No : C.R.P. No. 4088 of 1994

State of Andhra Pradesh, Land Reforms	APPELLANT
Vs	
K.V. Jagannadha Rao	RESPONDENT

Date of Decision : 28-09-2001

Acts Referred:

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

Citation : (2002) 2 ALT 228(1) : (2001) 3 APLJ 291

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : G.P, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The State of Andhra Pradesh through the Authorised Officer, Land Reforms, Kakinada filed this C.R.P. against the orders of the Land Reforms Appellate Tribunal dt. 6-2-1993 in L.R.A. No. 202 of 1990.

2. L.R.A.NO. 202 of 1990 was filed by the respondent against the order of the Land Reforms Tribunal, Kakinada in L.C.C. No. 532/TNI/75 dt. 26-5-1990. The controversy in all these proceedings is about the inclusion of the land in S.No. 318 of A.V. Nagaram covered by an agreement of sale marked as Ex.A-6. The Primary Tribunal while processing the declaration of the respondent refused to exclude the land covered under Ex.A-6 and passed an order dt. 20-5-1977. The respondent preferred. LRA.No. 558 of 1978 before the Appellate Tribunal. After framing necessary issues, the Appellate Tribunal in its order dated 15-5-1979 held as under:

"The transferee is in possession of such lands and it cannot be included in the holding of the transferor/declarant. The land covered under Ex.A-6 agreement of sale shall be excluded from the holding of the appellant."

3. The State filed C.R.P.No. 6051 of 1979 against this finding and direction of the

Land Reforms Appellate Tribunal in its order dt. 15-5-1979. The C.R.P.No. 6051 of 1979 was dismissed by this Court through the order dt. 23-4-1980 holding that the order of the Appellate Tribunal dated 15-5-1979 in so far as it excludes the land under Ex.A-6 does not suffer from any error of law or jurisdiction. The order in the C.R.P. became final.

4. Notwithstanding the fact that the matter excluding the lands covered by Ex.A-6 became final, the Primary Tribunal, once again through its order dt. 26-5-1990 passed u/s 10 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1975 included those very lands in the holding of the respondent. Having been aggrieved by such inclusion, the respondent filed LRA.No. 202 of 1990. The Appellate Tribunal, after referring to the various orders passed earlier by the Primary Tribunal, Appellate Tribunal and this Court, had arrived at a conclusion that there was absolutely no justification for the Primary Tribunal to include the lands covered by Ex.A-6 in the holding of the respondent even after it was held by the Appellate Tribunal on an earlier occasion and confirmed by this Court in C.R.P. and allowed the appeal.

5. The learned Government Pleader for Land Ceiling Sri. G. Venkateshwar Rao submits that the agreement of sale did not constitute the transfer and the Primary Tribunal was within its competence in including this land. It is also submitted that having regard to the decision of the Supreme Court in State of Andhra Pradesh Vs. Mohd. Ashrafuddin, the lands covered under the agreement of sale Ex.A-6 are liable to be included in the holding of the transferor.

6. I am unable to accept the contention of the learned Government Pleader that agreement of sale does not constitute transfer and the Primary Tribunal was competent to include the land in question in the holding of the respondent. This very question fell for consideration in earlier proceedings i.e. LRA.No. 558 of 1978 and C.R.P.No. 6051 of 1979. On appreciation of the questions of fact and law, it was held that the said land is liable to be excluded from the holding of the respondent. Those findings became final. By including the very land in the holding of the respondent, through its order dt. 26-5-1990, the Primary Tribunal had virtually acted as an appellate authority over the High Court and had in fact reversed the finding. This is not permissible. By acting contrary to the decision of this Court as well as the Appellate Tribunal, the Primary Tribunal had committed a grave irregularity, which is in fact reprehensible.

7. As regards the effect of the Judgment of the Supreme Court (cited supra), the record reveals that neither before the Appellate Tribunal nor in the grounds of revision before this Court, such a plea was taken. For the first time it was urged during the course of hearing. Even otherwise, if the petitioner feels that the judgment of the Supreme Court has any impact on the orders passed earlier at various levels, the only course open to them to make necessary application and seek modification of the same. It is not open to the Primary Tribunal or for that matter any authority to take a different view subsequent to the Judgment of the Supreme Court and the order of this Court passed on an earlier occasion cannot

be reverted. Such course of action will lead to disastrous consequences. Admittedly, no application is filed in this regard. Therefore, it is not open to the petitioner to support its action based on the Judgment of the Supreme Court.

8. For the foregoing reasons, the revision fails and it is accordingly dismissed. No order as to costs.