
(1996) 01 SC CK 0205

In the Supreme Court Of India

Case No : Civil Appeal No. 1675 of 1996 Arising out of SLP © No. 22115 of 1995

State of A.P.

APPELLANT

Vs

K. Bhaskara Rao

RESPONDENT

Date of Decision : 08-01-1996

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 10, 10(1), 10(2), 10(4)

Citation : (1998) 8 SCC 700

Hon'ble Judges : A. M. Ahmadii, C.J; Sujata V. Manohar, J; M. K. Mukherjee, J

Bench : Full Bench

Final Decision : Allowed

Judgement

1. Delay condoned.

2. Special leave granted.

3. Notice was issued to the respondent stating that the matter will be disposed of at the notice stage and if he fails to enter an appearance, the Court will proceed ex parte. Despite this notice, the respondent has not entered an appearance. We have heard counsel for the appellant and perused the impugned order of the High Court. Section 10 of the A.P, Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (hereinafter called "the Act") provides for surrender of land if the extent of the holding is in excess of the ceiling area. Sub-section (2) of Section 10 next provides that the Tribunal has to serve on every person, who is liable to surrender the land held in excess of the ceiling area under Sub-section (1), a notice specifying therein the extent of land which such person has to surrender. It further requires the person concerned to file a statement indicating therein full particulars of the lands which such person proposes to surrender. If the person on whom such a notice is served files the statement and the Tribunal is satisfied, after making such inquiry as it deems fit that the proposed surrender of the land is in accordance with the Act, Sub-section (3) requires it to pass an order approving the surrender whereupon the said land shall be deemed to have been

surrendered by such person. Sub-section (4), however, says that if the person has failed to file the said statement under Sub-section (2) or has filed a statement but has failed to specify therein the entire extent of land which he has to surrender, the Tribunal may, after giving him an opportunity of being heard, itself select, in the former case, the entire extent, and in the latter case, the balance of the extent which such person has to surrender and pass orders to that effect whereupon the said land or balance of land shall be deemed to have been surrendered by such person. This is a case falling within the latter part of Sub-section (4) of Section 10 of the Act since it is contended that the land surrendered was short of the entire extent of the land. The High Court proceeded on an erroneous assumption that once the land surrendered had been accepted under Sub-section (3) of Section 10, that concluded the matter even if it was short of the entire land in excess of the ceiling area. We think this approach of the High Court is not correct and is not in tune with the scheme of Section 10 of the Act. The High Court was not right in presuming that the acceptance of the surrender of land short of the entire extent amounted to waiver. We, therefore, set aside the order of the High Court and restore the order of the appellate authority, i.e., the Land Reforms Appellate Tribunal. The appeal will stand allowed accordingly, with no order as to costs.