

(1995) 01 SC CK 0127

In the Supreme Court Of India

Case No : Civil Appeal No's. 2943-50 of 1995

State of A.P.

APPELLANT

Vs

S. Vishwanatha Raju and Others

RESPONDENT

Date of Decision : 20-01-1995

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 3
Constitution of India, 1950 — Article 142

Citation : (1995) 2 JT 528 : (1995) 1 SCALE 855 : (1995) 3 SCC 327 : (1995) 1 SCR 529

Hon'ble Judges : N. Venkatachala, J;K. Ramaswamy, J

Bench : Division Bench

Advocate : K. Ram Kumar and Anjani Aiyagari, for the Appellant; K. Amareswari and G. Narasimhulu, for the Respondent

Final Decision : Allowed

Judgement

1. Heard counsel for thr parties.
2. Delay of 3 years and 178 days is condoned.
3. Substitution allowed, Leave granted.
4. The only question that arises in these appeals is whether the lands of vendors and the vendees under agreements to sell, Ex. A-1 and Ex. A-4 dated October 20,1970 and December 9,1970 to the extent of 456.56 acres and 433.17 acres, respectively, are liable to be included in their holdings. A This point is no longer res integra. This Court in Yedida Chakradhararao (Dead) through his Lrs and Others Vs. State of Andhra Pradesh, , affirming the judgment in State of Andhra Pradesh Vs. Mohd. Ashrafuddin, , held that when the land was sought to be sold under an agreement to sell, the land should be included in the holdings of the owner as well as the person who held the land. In other words, this Court has construed A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1975 and held that the land should be included in the holdings of the vendor as well as the

vendee. Though the agreement to sell does not confer title nor divest the title of the vendor, the person who held the land should also furnish necessary declaration under the Act when he is in possession of the land in excess of the ceiling area. In this view of the matter, the findings recorded by the primary Tribunal and the appellate Tribunal whether the agreement to sell brought about to defeat the provisions of the Act are genuine has become irrelevant. Consequently, the entire land covered by these two transactions are to be included in the holdings of the vendors as well as the vendees.

5. Ms. K. Amreshwari, the learned senior counsel appearing for the respondents contended that when the firm had filed the declaration before the primary authority in CC No. 2164/75 and the Land Reforms Tribunal, Kandukur by its order dated January 18, 1977 though did not accept the, -, genuineness of the two transactions and included the same in the holdings of the firm, on appeal by the Managing partner, the appellate authority had held them to be genuine and directed exclusion thereof, again with specific order. No. revision was filed in the High Court and therefore there is no SLP. The order thereby became final. The order impugned in this Court is of the individual declaring partner and orders against the other partners. It cannot be gone into for directing the inclusion of their land in the sale transactions as the respective holdings of the partners or the firms, as the case may be. Technically, she is right. It cannot be said that in appropriate cases, this Court is prevented to take suo motu judicial notice of glaring injustice having recourse to Article 142 of the Constitution for serving the ends of justice. The very purpose of the Land Reforms (Ceiling on Agricultural Holdings) Act, 1975, is to prescribe the maximum holding so that the excess land becomes available for distribution among the landless persons so as to serve the object of socio-economic justice envisaged in the Preamble to the Constitution and its Directive Principles of State Policy. When a large extent of land of about 900 acres is sought to be taken out of the purview of the Act by the device of agreements of sale and the officers overlook the same because of their negligence or otherwise in not carrying the orders of authorities in revision and when the facts came to the notice, this court having taken suo motu notice of the same, meet out justice. According suo motu notice is taken of the cases concerned and they are treated as special leave petitions against the order passed by the appellate authority and considered its legality by granting leave. Hence, we hold that the lands covered under Ex. A-1 and Ex. A-4 should be treated as lands held by the vendor and the vendee. The Land Reforms Tribunal concerned is, therefore, directed to reopen the CCs filed by the respective partners and the managing partners of the company and determine the surplus lands according to law and then pass the appropriate orders according to law.

6. The appeals are accordingly allowed. No costs. (A copy of this order be sent to Chief Secretary, Government of Andhra Pradesh, for taking immediate action in the matter).