(1997) 09 AP CK 0046

In the Andhra Pradesh High Court

Case No : C.R.P.No. 3294 of 1995

State of A.P. APPELLANT

Vs

V. Vishwanath Rao RESPONDENT

Date of Decision : 11-09-1997

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Rules, 1974 — Rule 16(5)

Citation : (1998) 3 ALD 114 : (1998) 2 ALT 408

Hon'ble Judges : Syed Saadatulla Hussaini, J

Bench : Single Bench

Advocate : Government Pleader for Land Ceiling, for the Appellant; Mr. Fazal Yousufuddin, for the Respondent

Judgement

1. Heard.

2. Aggrieved by the orders passed in L.R.A.No.1 of 1995 dated 15-2-1995 by the Land Reforms Appellate Tribunal, Karimnagar, the present C.R.P. is filed

3. The learned Government Pleader submits that an application under Rule 16(5)(b) of the Rules under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (hereinafter referred to as the Act) has been preferred before the Land Reforms Tribunal at Karimnagar to reopen the ceiling case of the respondent and declare him that he is the surplus landholder to an extent equivalent to 0.6140 Standard Holding on the ground that actually, the total calculations in the verification report comes to 2.8256 S.H. whereas in the verification report, only an extent of 2.1428 S.H, was shown and thus an extent of 0.6828 S.H. was omitted in the computation in respect of the holding of the declarant and termed this as a calculation mistake.

4. After notice to the respondent, the Land Reforms tribunal examined the case records and the report filed by the Authorised Officer (L.R.) and the original faisal patties of Thummanapalli village and observed that in the verification report, an

extent of Ac.22.27 cents of wet land is shown under ''E'' class i.e., Ac. 10.60 cents of Kamalapur village and Ac. 11.67 cents of Thummanapalli Village in the abstract of computation of area. Against the said Ac.22.27 cents class-E is shown whereas the extent in terms of S.H. is shown as 0.4904 S.H. as if it is dry land under ''J'' class. This error is challenged by the authorised officer (Land Reforms) in the petition filed under Rule 16(5(b). But on a consideration, the Land Reforms tribunal held that the verifying officer though has shown that the land is wet of ''E'' class as per revenue records due to non-irrigation of lands in terms of S.H. of ''J'' class categorisation and this lad to some confusion and prompted the Authorised Officer to file the petition and held that here is no calculation error in the report of verifying officer and that the orders determining the holding of the declarant-respondent passed vide the tribunal orders dated 29-1-1983 declaring the declarant as non-surplus holder stands good by his orders dated 22-10-1994.

5. An appeal in L.R.A.1 of 1995 has been preferred before the Land Reforms Appellate tribunal at Karimnagar by the Authorised Officer. Similar arguments were set up by the Authorised Officer before the Appellate tribunal. Against the original orders passed by the Land Reforms tribunal dated 29-1-1983 declaring the respondent as non-surplus holder, an appeal in L.R.A.No.20/1983 was preferred by the State and the same was dismissed by the Land Reforms Appellate Tribunal on 1-10-1983. As no revision has been preferred against the Appellate order, the said order has become final. By virtue of the finality of the appellate order in.R.A.20/1983, dated 1-10-1983, the declarant stands non-surplus holder. Further, it is alleged tha the calculation mistake was done by the Verifying Officer in categorisation of ''E'' category of lands and ''J'' category of lands and when the mistake was detected, it was found that the lands of the declarant were wrongly categorised as ''J'' category, as the said lands were not having the State Government''s source of irrigation.

6. The order passed by the Land Reforms Tribunal has merged in ''J'' of the Appellate''s order passed in L.R.A.No.20/1983, dated 1-10-1983; as such, the said order cannot be interfered with by the Land Reforms Tribunal before whom the application under Rule 16(5)(b) of the Act (sic. Rules) has been filed. Apart from that, a perusal of Rule 16(5)(b) of the Act (sic. Rules) which is extracted below:

"The Revenue Divisional Officer, the District Collector, Tribunal and the Appellate tribunal shall have the power :-

(b) to correct any clerical or arithmetical mistakes in judgments or errors arising therein from any accidental slip or omission, either of its own motion or on the application of the parties.''''

reflects that any clerical or arithmetical mistakes in judgments or errors arising therein from any accidental slip or omission, either of its own motion or on the application of the parties, can be corrected.

7. In the present case, the situation is altogether different. Originally, the

Primary Land Reforms Tribunal held the respondent-declarant to be a non-surplus holder and the same was confirmed in the appeal and the said order of the appellate Court has become final, as no revision has been preferred before the High Court by the State Government. The primary Tribunal as well as The Appellate Tribunal-below have held that there is no clerical or arithmetical error; but the submission of the Authorised Officer is on the ground of categorisation of the lands from ''E'' category to ''J'' category for non-supply of State Government''s source of irrigation. Such a categorisation of the lands of the declarant which has become final by virtue of the judgment in L.R.A.20 of 1985 dated 1-10-1983, cannot be reopened and Rule 16(5)(b) of the Act (sic. Rules) is not attracted in this case.

8. In view of the above facts, this C.R.P. lacks merits and accordingly, the same is dismissed.