
(1977) 04 AP CK 0003

In the Andhra Pradesh High Court

Case No : Civil Revision Petition No. 2443 of 1976

The State of Andhra Pradesh and Another

APPELLANT

Vs

Karri Magireddi

RESPONDENT

Date of Decision : 21-04-1977

Acts Referred:

Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 — Section 3

Citation : AIR 1978 AP 43

Hon'ble Judges : Ramachandra Raju, J;Madhava Rao, J

Bench : Division Bench

Advocate : Government Pleader for G.A.D, for the Appellant; U. Sethumadhava Rao, for the Respondent

Judgement

Ramachandra Raju, J.—The State of Andhra Pradesh is the petitioner in the Civil Revision Petition. The C. R. P. has arisen out of a declaration filed by the respondent under S. 8 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural) Act 1973, hereinafter referred to as the Act.

2. There was a controversy between the Government and the respondent with regard to certain items of land, which according to the respondent, they are single crop Wet Lands and which according to the Government, they are double crop Wet Lands. The controversy was with regard to items comprised in S. Nos. 3/2, 104 and 571 of Pasalapudi Village in East Godavari District. The Land Reforms Tribunal, Rajahmundry before whom the declaration was filed, found that all the three items are double crop wet-lands. In the appeal filed by the declarant the Land Reforms Appellant Tribunal, Rajahmundry came to the conclusion that the items relating to S. Nos. 3/2 and 104 are not double crop wet-lands and they should be treated as single crop wet-lands while holding that the item relating to S. No. 571 is double crop wet-land. With regard to the finding that the item relating to S. No. 571 is double crop wet-land, there is no revision filed to this court by the declarant. It is only the Government that has filed this revision questioning the correctness of the finding of the Appellate Tribunal that

the items relating to S. Nos. 3/2 and 104 are single crop wet-Lands.

3. It is not in dispute that both S. Nos. 3/2 and 104 are included in Schedule "B" as well as in Schedule "A" rotation zone and in all the six relevant faslis, 1378 to 1383 paddy crop was raised both in the first crop and second crop seasons. It is the case of the Government that since the lands are included in B Schedule they became double crop wet lands as per the definition given to it under S. 3 (d) of the Act, while according to the declarant, since no second crop was raised in the lands in any of the four faslis out of the six faslis with the aid of the water from the Government source of supply, they cannot be treated as double crop wet lands having regard to proviso (a) which finds a place in the definition of "double crop wet land" under S. 3 (d) of the Act.

4. Admittedly, the declarant raised second crop in S. No. 3/2 with the aid of filter point water only during faslis 1378, 1381 and 1382, and in s. No. 104 he raised second crop with the aid of filter point water during faslis 1379, 1380, 1381 and 1383 out of the six faslis and that water from the Government source was not utilised for raising second crop in those faslis.

5. In order to appreciate the respective contentions of the parties, it is necessary to examine the definition given to the expression "double crop wet land" in S. 3 (d) of the Act. It is convenient to extract here the said definition :

"(d) "Double crop wet land" means any wet land registered as double crop or compounded double crop wet land in the land revenue accounts of the Government and includes any wet land not so registered, -

(i) for which in accordance with any scheme of localisation being adopted under any Government source of irrigation, water is available in both the first and second crop seasons during the fasli year including the lands covered by Schedule B and Part-II of schedule C appended to the draft rules for the irrigation of lands in the Godavari Western, Eastern, and Central Deltas published in the Rules supplement to Part-II Extraordinary of the Andhra Pradesh Gazette, dated the 16th July, 1962;

(ii) on which two crops per fasli year have or a dufassal crop has been raised with the use of water from a Government source of irrigation in any four fasli years within a continuous period of six fasli years immediately before the specified date;

(iii) which is capable of raising two crops per fasli year with the use of water from a tube well constructed by the Government or any person :

Provided that :

(a) any land entitled to a the supply of water from a Government source of irrigation and on which two irrigated crops per fasli year have or a dufassal crop has not been raised with the use of water from such source, in any four fasli years within a continuous period of six fasli years immediately before the

specified date, for want of supply of water from such source :

(b) any land for which in accordance with any scheme of localisation being adopted under any Government source of irrigation water is made available during the second crop season solely in consideration of the likelihood of the loss of the first crop on account of submersion, salinity, tidal action or the like :

(c) any land to which water has been specifically supplied on a temporary basis for raising a second crop by diversion of water intended for eventual utilisation elsewhere :

(d) any land irrigated by a Government source of irrigation covered by proviso (iii) to Sub-sec. (1) of S. 5; shall not be deemed to be double crop wet land."

6. From an examination of the above definition it appears clear that there are five categories of double crop wet lands as per the definition namely;

(1) any land registered as double crop or compounded double crop wet land in the land revenue accounts of the Government;

(2) lands for which in accordance with any scheme of localisation being adopted under any Government source of irrigation water is available in both the first and second crop seasons during a fasli year;

(3) the lands included in Schedule B and Part II of Schedule C appended to the Draft Rules published in the Andhra Pradesh Gazette dated 16-7-1962, as per G. O. Ms. No. 140 Public Works, 19th January, 1962, which is popularly known as Localisation G.O., and which will be referred to accordingly, hereinafter in this Judgment ;

(4) land on which two crops per fasli year have or a dufassal crop has been raised with the use of water from Government source of irrigation in any four fasli years within a continuous period of six fasli years in question;

(5) land which is capable of raising two crops per fasli year with the use of water from a tube well constructed by the Government or any other person.

7. Though second crop paddy was raised in the lands in all the six faslis they do not come under the fourth category of double crop wet land as mentioned above because neither second crop nor dufassal crop was raised in any of the four faslis out of the six faslis with the use of water from the Government source of irrigation, as admittedly the second crop in S. No. 3/2 during faslis 1378, 1381 and 1382 was raised with filter point water which is not a Government source of irrigation. Similarly, second crop in S. No. 104 during faslis 1379, 1380, 1381 and 1383 was raised with the use of water from Government source of irrigation. As a matter of fact, as these lands are in triennial rotation zone, as of right second crop could be raised only once in three years, which means second crop could be raised with the use of water from Government source of irrigation in two faslis only, out of the six faslis. This court in Karra Brahmeswara Sarma Vs. The Special Deputy Tahsildar, Land Reforms and Another, , held that for lands to

become double crop wet lands under the fourth category, four Second crops during the six fasli years should have been realised as of right.

8. Admittedly, the lands do not come under first, second and fifth categories. According to the Government, they come under the third category because they are included in Schedule B of the Draft Rules of the Localisation G. O. Even though the lands are included in Schedule B still they cease to be double crop wet lands if it can be shown as provided in proviso (a) in the definition that dufassal crop could not be raised at least in four faslis out of the six faslis for want of supply of water from the Government source of irrigation. According to the Draft rules, water can be taken for second crop only if they are included in Schedule A either in permanent or rotational zone. Admittedly, the lands comprised in S. Nos. 3/2 and 102 are included in Schedule A triennial rotation zone and they are also included in Schedule B. It is provided under the Draft Rules of the Localisation G. O. that lands included in Schedule B may take water for irrigation once in ten days in the first and second crop seasons. It is further mentioned in the Rules that any lands not falling either in the permanent or in the rotational zone shall not be irrigated in the second crop season under any circumstances unless they are included in either Schedule B or Schedule C and the lands included in the rotational zone only shall not be irrigated in the second crop season during non-turn years. It is also provided under the Rules that a land included in more than one schedule may take water under the rules applicable to any of the schedules in which it is included. Since the lands are included in triennial rotation zone of Schedule A, for raising second crop paddy after raising first crop paddy, water can be taken in the turn years only once in three years. Since they are also included in Schedule b, in all faslis water can be taken once in ten days even in second crop season also. By taking water once in ten days, only dufassal crops can be raised and not paddy crop which normally requires continuous supply of water and flooding and not merely watering. In standing order 55-A, 2 (i) in Chapter-I of the Standing Orders of the Board of Revenue, Volume I at page 10, dufassal crops are mentioned as crops the cultivation of which lasts during two seasons, and they are mentioned as sugarcane, betel, plantains, turmeric etc., as first category, and as second category all other crops which under local practice ordinarily require water for a period equal to two ordinary wet crops, that is, for more than six months. Therefore, as the lands are included in Schedule-B, in all faslis water can be taken once in ten days both in the first and second crop seasons in order to raise dufassal crops.

9. Since the lands in question are also included in schedule-A of triennial rotation zone, they can get water for raising second crop only in two faslis out of the six faslis. Since they are also included in Schedule B, dufassal crop could be raised in all the six faslis. Therefore, for attracting the proviso (a) in the definition of "double crop wet land", to the lands in question it must be shown that water was not made available from the Government source of irrigation so as to enable to raise dufassal crops at least in four faslis out of the six faslies. The only case of

the declarant is that he raised second paddy crop in S. No. 3/2 during the three faslis out of the six faslis and in S. No. 104 during the four faslis out of the six faslis from filter point water and not from the water through the Government source of irrigation. They may be so. As already mentioned above, the Government was not bound to supply water to the declarant for raising second crop in the lands except in turn years, the turn being once in three fasli years. Being in Schedule B the Government is liable to supply water to the lands in question in every fasli in second crop season also only for raising dufassal crop and not for raising second crop paddy. It is nowhere averred that on account of non supply of water from Government source of irrigation the declarant could not raise dufassal crop in any of the six faslis though he wanted to raise the same. Under these circumstances, it has not been shown that proviso (a) in the definition is attracted to conclude that the lands in question are single crop wet lands though they are included in Schedule-B.

10. Therefore, the Land Reforms Appellate Tribunal erred in finding that the lands comprised in S. Nos. 3/2 and 104 are single crop wet lands. They are only double crop wet lands as per the definition.

11. Accordingly, the Civil Revision Petition is allowed and it is declared that the lands in question comprised in S. Nos. 3/2 and 104 are double crop wet lands. No. costs. Advocate's fee Rs. 100/-.

12. Revision allowed.