
(2005) 08 AP CK 0118
In the Andhra Pradesh High Court
Case No : SA No. 73 of 2001

Thorati Latcharao

APPELLANT

Vs

Mandal Revenue Officer and Another

RESPONDENT

Date of Decision : 23-08-2005

Acts Referred:

Andhra Pradesh (Andhra Area) Tenancy Act, 1956 — Section 16

Citation : (2005) 6 ALD 150

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : T.S. Anand, for the Appellant; Government Pleader for Arbitration, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The plaintiff in O.S. No. 395 of 1990 on the file of the learned IV Additional District Munsif Judge, Rajahmundry is the appellant. He filed the suit against the respondents, for the relief of declaration that he is the cultivating tenant in respect of the suit schedule property and for consequential perpetual injunction restraining them and their agents from dispossessing him. He pleaded that the land admeasuring Ac.2.41 cents in R.S. No. 574/1 of Kadium Village, East Godavari District was owned by one Ramella Timmarayanam and that he is the tenant of that land for about 30 years, prior to the filing of the suit. He further pleaded that without his knowledge and notice to him, the respondents had identified that land for surrender, as excess land under the provisions of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short "the Ceiling Act"), and that on the strength of the same, the respondents tried to evict him.

2. The respondents denied the claim of the appellant. According to them, the land was surrendered by the owner and there were no tenancy rights over it. They pleaded that the surrender became final and possession was also taken on 13-10-1989. It was alleged that the land was proposed to be assigned to as

many as eight beneficiaries and that the value of the land was also remitted by the beneficiaries to the Government.

3. Through its judgment, dated 21-8-1997, the trial Court decreed the suit. Aggrieved thereby, the respondents filed A.S. No. 182 of 1997 in the Court of the learned District Judge, Rajahmundry. The lower appellate Court allowed the appeal through its judgment, dated 22-12-2000. Hence, this second appeal.

4. Sri T.S. Anand, learned Counsel for the appellant submits that the appellant had proved, beyond any reasonable doubt, that he is the tenant in respect of the suit land and in that view of the matter, he was entitled for the relief of declaration and injunction. He submits that the lower appellate Court has taken certain extraneous factors into account and reversed the decree passed by the trial Court. Learned Counsel points out that once the revenue records reflect the possession of the appellant in the capacity of the tenant, the fact that the land came to be surrendered does not affect his rights.

5. Learned Government Pleader for Arbitration, on the other hand, submits that the claim of the tenancy rights by the appellant was turned down by this Court in CRP No. 2213 of 1991 through the judgment, dated 15-2-1995, and that the suit itself was not maintainable. He contends that the declaration of the tenancy rights can be undertaken only by an authority u/s 16 of the Andhra Pradesh (Andhra Area) Tenancy Act, 1956 (for short "the Tenancy Act"), that too in the presence of alleged landlord. He further submits that once the land was taken possession as an excess land under the Ceiling Act, the Civil Court is not competent to pronounce upon the validity of the same. He submits that either way, the suit is not maintainable and that the lower appellate Court had corrected the error committed by the trial Court.

6. The appellant pleaded that he is the tenant in respect of the suit schedule property for the past several decades. If that be so, his rights are governed by the provisions of the Tenancy Act. Section 16 of that Act provides for the adjudication of disputes between the tenant and the landlord. Even assuming that he did not face any threat of eviction from the landlord, he could have got any relief, only after a declaration that he is the tenant of the said landlord in respect of the land; and such a declaration cannot be granted, except where the landlord was made a party. Even assuming that there is no bar to seek such a declaration in a Civil Suit, it was obligatory on the part of the appellant to implead the landlord. In the absence of the landlord as a party to the suit, it was not competent for the trial Court to grant any declaration of that nature.

7. Secondly, the respondents took steps vis-a-vis the land, on the strength of the surrender made by the landlord. The surrender proceedings were marked as Ex.B.1 and it was alleged that through Ex.B.2, the possession was taken. If the appellant was of the view that there was infraction of any provision of the Ceiling Act or that his rights were affected on account of those proceedings, it was open to him to assail the same by filing an appeal. It is not in dispute that the

appellant availed such a remedy, and when the L.R.A was dismissed, he filed C.R.P. No. 2213 of 1991 before this Court. The C.R.P. was also dismissed on 15-2-1995. That being the case, it was not at all open to the appellant to file the suit nor it was open to the trial Court to entertain it. In a way, the trial Court had ignored the adjudication that has taken before this Court. It amounts to a serious irregularity on the part of the trial Court.

8. The filing of the present suit is sought to be justified, on the ground that Ex.A.2 to A.4, the extracts of Adangals, were not available to be produced before this Court in the C.R.P. Even if. that, plea is true, the only course open to the appellant was to approach this Court with an appropriate application in the C.R.P. itself, seeking review. By filing the suit, the appellant had made the trial Court as an appellate Court over the orders passed by this Court in the C.R.P. The lower appellate Court took these aspects into account and allowed the appeal. Therefore, this Court does not find any basis to interfere with the same.

9. Hence, the second appeal is dismissed. Learned Counsel for the appellant submits that the appellant may be granted reasonable time, to harvest the standing crop. It has already come on record that the identified beneficiaries have deposited the cost of the land about 1/2 decade ago. The matter cannot brook any further delay. The appellate is granted three months time to harvest the crop or remove any belonging to the land. After the expiry of that time, it shall be open to the respondents to evict the appellant and take further steps, in accordance with law. There shall be no order as to costs.