
(1999) 08 AP CK 0112
In the Andhra Pradesh High Court
Case No : AAO No. 241 of 1993

Thumati Varamma

APPELLANT

Vs

Thumati Rambhotlu and others

RESPONDENT

Date of Decision : 25-08-1999

Acts Referred:

Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 — Section 3, 7

Citation : (1999) 6 ALD 185

Hon'ble Judges : Elipe Dharma Rao, J

Bench : Single Bench

Advocate : Mr. Addepalli Suryanarayana, for the Appellant; Mr. M.V.S. Suresh Kumar, for the Respondent

Judgement

1. This appeal is filed against the judgment and decree dated 26-10-1992 in AS No.41 of 1992 on the file of the District Judge, Ongole, which was filed aggrieved by the judgment and decree dated 15-6-1992 in OS No.672 of 1987 on the file of the I Additional District Munsif, Ongole. The learned District Judge, while allowing the appeal without costs, set aside the judgment and decree of the learned District Munsif and remanded the matter for fresh disposal, framing issues which are the points mentioned in his judgment, which is impugned in this Miscellaneous Appeal.

2. The brief facts leading to the filing of the suit lies in a narrow compass as under:- The defendants, respondents herein, are distantly related to the plaintiff, the appellant herein. The plaintiff purchased suit schedule property from Y. Chandrasah Rao, under registered sale deed dated 24-2-1987 and ever since the purchase, the plaintiff was in peaceful possession and enjoyment of the schedule property. The plaintiff purchased the land shown in plaint schedule as items 1 and 2. It is averred that in item No.2, the plaintiffs vendor raised casurina plantations and alongwith casurina plantations, the plaintiff purchased the said land. The defendant Nos.1 and 2 are the son and daughter of the third

defendant who is the wife of Thumati Rangayya Chowdary, one of the influential lyots of Maddiralapadu village. Since the defendants are rich persons, with the assistance of their men, they wanted to dispossess the plaintiff from the plaint schedule lands, she filed the suit.

3. The second defendant filed written statement contending that the suit is not maintainable in law and on facts, that Maddiralapadu is an inam village and there are private lands in the inam estate and the suit property is the inam property of Uppala Singaracharyulu who leased out the schedule land to T. Rangaiah Chowdary, after whose death, the defendants came in possession of the property and the plaintiff's vendor had no title to the lands, that the Inam Abolition Act has no application to the said inam lands and the Inams Deputy Tahsildar, granted patta to the defendants and said Singaracharyulu and the plaintiff's vendor has nothing to convey to the plaintiff, since the defendants are lessees of Singaracharyulu, that the plaintiff's vendor worked as clerk under the defendants and was removed for his misdeeds, that the Land Ceiling Authorities passed orders in CC 420 and 1015/OGL/75, dated 14-4-1987 in which the suit property is shown to be that of Singaracharyulu and the defendants are lessees. Neither the plaintiff nor the vendor has ever raised any crop at any time in the suit property.

4. Based on the contentions and rival contentions the trial Court framed the following two issues:

1. Whether the plaintiff is entitled to the injunction prayed for ?

2. To what relief?

5. The learned District Munsif, on an appraisal of both the oral and documentary evidence, adduced on behalf of both the plaintiff and the defendants, decreed the suit with costs, holding that PW2 was in possession of the plaint schedule property prior to Ex.A1 under Ryotwari Patta granted by the Inams Deputy Tahsildar and subsequently the plaintiff and her husband have been in possession and enjoyment of the said property.

6. Aggrieved by the said finding of the learned District Munsif, the defendants preferred AS No.41 of 1992 before the District Judge, Ongole and the learned District Judge has remanded the matter to the trial Court on the ground that though apparently the suit appears just like a suit for injunction, unless the nature of the suit schedule land is decided and unless the nature of possession of the suit schedule land by PW2, prior to Patta (Ex.A3) is decided, it cannot be said, with respect to the value of the patta, Ex.A3 in the eye of law and consequently the other documents in "A" series, which came into existence, basing on the patta, Ex.A3, except the Pattedar Pass Book Ex.A2, no other documents show the possession of the suit schedule land by the plaintiff's vendor. The learned District Munsif did not consider all the above said aspects and proper evidence also has not been adduced on both sides in systematic manner to meet the said points. Hence, the finding given by the learned Munsif, is baseless and

as such the finding of the learned District Munsif, the judgment and decree shall be set aside and the case shall be remanded for fresh disposal. It is this judgment and decree, which is impugned in this Miscellaneous Appeal.

7. The learned Counsel for the appellant has submitted that the lower appellate Court has erred in reversing the judgment of the trial Court, that the learned District Judge has failed to appreciate that the trial Court has allowed the suit after due consideration of the evidence, both oral and documentary, adduced by both the parties and therefore, should not have interfered with the finding and remanded the matter for fresh disposal. The finding of the learned District Judge that the said suit cannot be decided unless the nature of the lands and possession of the suit schedule land by PW2, prior to grant of patta Ex.A3, is decided, is not correct, that the learned District Judge has failed to see that the jurisdiction of the civil Court was excluded to entertain the suit to decide nature of land and on the question of grant of Ryotwari Patta under Sections 3 and 7 of the A.P. (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956 and, therefore, the order passed by the learned District Judge is liable to be set aside. He further submitted that the main issue in this appeal is whether the impugned order passed by the learned District Judge holding that the learned District Munsif has not considered the nature of land possession of the suit schedule land prior to the issue of Ex.A3, patta, etc., is sustainable or not.

8. To substantiate his contention, the learned Counsel for the appellant has taken me to some of the aspects dealt with by the learned District Munsif in his judgment, particularly the provisions of the A.P. (Andhra Area), Estates Land Act, 1908, Estate Abolition Act and Inams Abolition Act.

9. Basing on both oral and documentary evidence, the learned District Munsif held that the said appellant-plaintiff has purchased the land from one Chandrasa Rao, who was the pattedar and the plaintiff came in possession of the land through the patta granted by the Inams Deputy Tahsildar under the Inams Abolition Act and it is proved beyond doubt that the said Chandrasa Rao, who was defendant No.4 in the earlier litigation was granted patta by the said Deputy Tahsildar. The contention of the defendants is that the property belongs to Singaracharyulu and they are the tenants of said Singaracharyulu, who was granted patta by the Assistant Settlement Officer under the Estate Abolition Act. As seen from the contention and rival contention the defendant has contended that it is Inam land and the village Maddiralapadu was declared to be under the purview of Estate Abolition Act and the further contention of the defendant is that the village comes under the purview of Estate land, As contended by the plaintiff, the Maddiralapadu village is not an Estate and it clearly comes under the purview of Inam Abolition Act and the patta granted in favour of PW2 is valid and the rival contention of the learned Counsel for the respondent is that the village comes within the provisions of Estate Abolition Act and the Settlement Officer is not competent person to grant patta after the Estate Abolition Act came into force. When the said Singaracharyulu filed appeal

against the grant of patta by the Deputy Tahsildar, under the Inam Abolition Act, Singaracharayulu filed appeal Ex.A6, through whom the defendants are claiming possession of the plaint schedule property and the Assistant Settlement Officer, Ongole in SRNo.5/58 relating to Maddiralapadu village in his order dated 1-4-1959 held that Maddiralapadu village is not an Inam Estate u/s 9 of the Madras Act 26 of 1948 and the District Collector made an appeal in the Court of the Estates Abolition Tribunal (District Judge, Guntur), disputing the order passed by the Assistant Settlement Officer, that Maddiralapadu is not an Inam Estate and Singaracharayulu himself contested the matter as respondent against the contention of the District Collector, Guntur and the Estates Abolition Tribunal held that Maddiralapadu is not an inam Estate within the meaning of Section 3(2Xd) of the Estate Land Act. That judgment of the Tribunal has become final and it is not beyond doubt, as seen from Ex.A6, that Maddiralapadu does not come within the purview of Estates Abolition Act and as such the said village comes under the purview of Inam Abolition Act, 1956. It is also pertinent to mention here that Singaracharayulu questioning the patta granted by the Inams Deputy Tahsildar, in the grounds of appeal, asserted that he is entitled to Ryotwari Patta for the entire extent under the Inams Abolition Act and the Revenue Divisional Officer in his order under Ex.A7 again asserted that Maddiralapadu is not an inam Estate and falls within the purview of Estates Abolition Act and as such the contention of the learned Counsel for the defendants that the village Maddiralapadu is an Estate and comes under the purview of Estates Abolition Act, cannot be accepted. From the provisions of Inams Abolition Act, it is clear that a machinery is provided to enquire with the nature of the inam and rights of the persons interested in the said inam to issue a Ryotwari Patta to inamdar or tenants and if it is a religious institution to grant occupancy rights to tenants therein. Accordingly, the Inams Deputy Tahsildar conducted enquiry and issued patta in favour of PW2. When once it is clear that the Inams Abolition Act squarely applies to Maddiralapadu village, there is no question of granting patta under Ex.B9. It is also pertinent to mention here that when once Singaracharyulu, contested the matter and the Estates Abolition Tribunal held that Maddiralapadu is not an Estate, there is no question of himself getting a patta under Ex.B9 from the Settlement Officer, that too after the Inams Deputy Tahsildar granted patta in favour of PW2 and some others under the Inams Abolition Act. The learned District Munsif has also observed that the tenants have not examined Singaracharyulu who is the best person to say that Maddiralapadu is a shortier village and whether the Tahsildar has followed the procedure prescribed at the time of granting patta to PW2 and others. As seen from the discussion and finding, arrived at by the learned District Munsif, a hierarchy of machinery is provided under the Act for deciding the matter whether the suit lands situated in the village comes within the purview of Estate Abolition Act or comes within the purview of Inam Abolition Act and the decision of the Estate Abolition Tribunal constituted under the Estates Abolition Act also is to the effect that the lands situated in Maddiralapadu village comes within the purview of Inam Abolition Act and that decision has become final. Therefore, the finding of the learned District Judge that the District Munsif has

not decided the nature of the land is not correct.

10. That apart, the District Munsif cannot decide any such issue in view of the ruling of the Supreme Court in Vatticherukuru Village Panchayat Vs. Nori Venkatarama Deekshithulu and Others, , wherein the learned Judges have observed that the Inams Act is a self contained Code. It expressly provided rights and liabilities, prescribed procedure, remedies of appeal and revisions, excluded the jurisdiction of the civil Court.

11. Therefore, the civil Courts are ousted from the jurisdiction to consider whether a particular land situated in a particular village comes within the purview of Inam Abolition Act. As stated above, the Act itself is a self contained Code providing hierarchy of machinery to decide the matter. Accordingly, the issue involved in this particular case was already decided by the machinery provided under the Estate Abolition Act and Inam Abolition Act and the patta was granted by the Inams Deputy Tahsildar to PW2. When the matter was carried by the District Collector, the Estates Abolition Tribunal, constituted under the Estates Abolition Act, it was held that the said village does not come under the purview of Estates Abolition Act, but comes under the Inam Abolition Act and the above said judgment has become final and that too after the said Singaracharyulu contested the matter. Therefore, the learned District Judge, cannot simply throw away the findings without considering the evidence adduced on behalf of both the parties, observing that the learned District Munsif did not consider the evidence and failed to give findings on certain aspects, i.e., nature of the lands.

12. With regard to the possession of the plaintiff through their vendor, the learned District Munsif has observed that under Ex.B5 the defendants were shown in possession of Ac. 25-50 cents of land and the said land was cultivated by Rangaiah Choudhary as lessee of Singaracharyulu and Singaracharyulu is the owner of that land. The learned District Munsif held that the said Ex.B5 cannot prove the possession of the plaint schedule property either by Rangaiah Choudhary or by Singaracharyulu as it is not specifically mentioned what is the exact extent of the land owned by Singaracharyulu and the land cultivated by Rangaiah Choudhary as a lessee of Singaracharyulu, and finally held that the statement in Ex.A6 goes to show that Rangaiah Choudhary has surrendered the possession of the land he was cultivating, to the owner Singaracharyulu. The averments in Ex. A6 go to show that neither Rangaiah Choudhary nor the defendants herein were in possession of the plaint schedule property by the time of patta was granted to PW2 by the Inams Deputy Tahsildar. It was contended by the defendants that in Exs.B6 to B8, the name of PW2 is not mentioned, but in view of the fact that Rangaiah Choudhary surrendered the possession of the lands to Singaracharyulu and that the Inams Deputy Tahsildar enquired into the matter and granted patta to PW2, Exs.B6 to B8 are not much helpful to the defendants. The learned District Munsif finally held that the Deputy Tahsildar under the Inams Abolition Act has conducted enquiry and granted patta to PW2 and therefore, the possession of PW2 and through him the plaintiff and PW1

came into possession of the property appears to be more probable.

13. This Court in Kollapudi Sriramulu v. Kollapudi Venkata Radhakrishna Murthy and another, 1985 (2) ALT 534 has held that the order of remand without considering the evidence on record is not legal. It was considered by a learned single Judge of this Court, that the order of remand made without coming to the conclusion that the decision of the trial Court is wrong and that it is necessary to reverse or set aside the decree is illegal. The learned Judge held that the appellate Court has to consider the evidence on record and then to arrive at a conclusion whether the finding recorded by the trial Court cannot be supported by evidence on record. Then the further question to be considered is whether it is a case for remand. In that behalf, conduct of the parties has to be considered, viz., whether they have sufficient opportunity to adduce evidence at the trial but not brought on record, if not, whether or not it would be a case to afford such an opportunity. In the instant case, the learned District Judge, without observing the principle simply remanded the matter for fresh disposal on flimsy grounds.

14. Therefore, the appeal is allowed setting aside the judgment and decree dated 26-10-1992 in AS No.41 of 1992 on the file of the District Judge, Ongole, and the matter is remanded to the Lower Appellate Court with a direction to consider the matter afresh after giving opportunity to both the parties, to adduce evidence if any, and dispose of the same in accordance with law, as early as possible within six months from the date of this order. No costs.