
(2009) 08 AP CK 0012
In the Andhra Pradesh High Court
Case No : C.R.P. No. 723 of 2004

Vallurupalli Jagadeeswara Rao	Vs	APPELLANT
Vytla Satyanarayana and Others		RESPONDENT

Date of Decision : 03-08-2009

Acts Referred:

Andhra Pradesh (Andhra Area) Tenancy Act, 1956 — Section 16(1)
Constitution of India, 1950 — Article 227

Citation : (2009) 5 ALD 813 : (2009) 5 ALT 401

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : K.V. Bhanu Prasad, for the Appellant; G. Krishna Murthy, for Respondents 1 and 3, P. Raja Gopal Rao, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioner filed A.T.C. No. 5 of 1982 before the Special Officer (Andhra Tenancy)-cum-Principal District Munsif, Tadepalligudem, u/s 16(1) of the A.P. (Andhra Area) Tenancy Act (for short "the Act"), with a prayer to declare that he is the cultivating tenant, in respect of about Acs.9.00 of land, mentioned in the schedule. He pleaded that the land was owned by one Mr. Pattabhi Ramaiah, father of the 1st respondent, and he gave the same on lease, in the year 1974, on yearly rent of Rs. 900/-, per month. It was pleaded that the rents were being paid to Pattabhi Ramaiah regularly, till he died in 1978, and thereafter, his legal representatives, the respondents herein, not only refused to receive the rents, but also are trying to evict him, without taking recourse to law. The A.T.C., was opposed by the respondents by filing counters.

2. Even while A.T.C. No. 5 of 1982 was pending, respondents 5 to 11 herein filed A.T.C. No. 14 of 1988 u/s 13 of the Act, against the petitioner, for his eviction from the land, and A.T.C. No. 15 of 1988 for determination of fair rent. The trial Court clubbed all the three cases. The matters were pending till 1996. Through common order, dated 08.04.1996, the trial Court dismissed A.T.C. No. 5 of 1982.

So far as A.T.C. Nos. 14 and 15 of 1988 are concerned, it was observed that, since there did not exist any tenancy between the petitioner and the respondents, referable to the Act, they have to work out their remedies separately, particularly in the suit, being O.S. No. 39 of 1986, that was pending in the Court of Subordinate Judge, Tanuku.

3. The petitioner filed A.T.A. No. 43 of 1996 in the Court of Appellate Tribunal-cum-District Judge, Eluru. The appeal was dismissed through order, dated 19.12.2003. Hence, this revision, under Article 227 of the Constitution of India.

4. Sri K.V. Bhanu Prasad, learned Counsel for the petitioner, submits that the very fact that some of the respondents have filed A.T.C. Nos. 14 and 15 of 1988 discloses that there existed tenancy, and there was no justification for the trial Court and the lower Appellate Court in not granting relief to the petitioner. He contends that, voluminous oral and documentary evidence was adduced before the trial Court to establish the tenancy, and still, it was not recognized.

5. Sri G. Krishna Murthy and Sri P. Raja Gopal Rao, learned Counsel for the contesting respondents, on the other hand, submits that the petitioner had cast his evil eye on a valuable property held by the family of the respondents, and in his attempt to grab it, he has even brought about differences among the family members. They contend that A.T.C. Nos. 14 and 15 of 1988 are the proceedings engineered by the petitioner to sub-serve his purpose and the trial Court had dealt with the matter in a more detailed manner, than in a suit. They contend that the petitioner miserably failed to establish the tenancy over the land.

6. The petitioner pleaded that the tenancy, in respect of the land, has commenced in the year 1974, and that it was an oral lease. He wanted a declaration to the effect that he is a cultivating tenant, as defined under the Act. The respondents resisted the plea. Before the trial Court, the petitioner adduced the evidence of P.Ws.1 to 3 and filed Exs.A-1 to A-3. On behalf of respondents, R.Ws.1 to 3 were examined and Exs.B-1 to B-10 were filed.

7. Though the application filed by the petitioner was simple in its purport, the matter assumed wider proportions, not only in view of the dispute between the petitioner and the respondents, but also the respondents inter se. The petitioner did not place written proof of the existence of tenancy, or the proof of payment of rent. Much reliance was placed upon Ex.A-2, extract of an adangal for the Fasli 1384-89. After verifying the original record, the trial Court recorded a specific finding to the effect that the important entries in Ex.A-2 are interpolated. On their part, the respondents filed the copies of land ceiling declarations, filed by their ancestor viz., Pattabhi Ramaiah, which disclosed that the land was declared by him. If, in fact, the petitioner held the land even as tenant, he was under obligation to mention the same in the declaration filed by him. The record discloses that the petitioner holds substantial extents of land, as owner, and filed a declaration under the A.P. Ceiling on Agricultural Holdings Act, 1961. Failure on the part of the petitioner to mention the lands, would certainly indicate that

there did not exist any tenancy in his favour.

8. On being declared as cultivating tenant under the Act, a person acquires certain rights. Therefore, heavy burden rests upon him to prove the necessary ingredients. In the instant case, the petitioner failed to prove such ingredients. One of the important factors in the matters of this nature is payment of rent. Hardly any proof was forthcoming, to establish that any rent was paid to Pattabhi Ramaiah during his life time. No effort, worth its name, was made by the petitioner, to pay rent to the legal representatives of Pattabhi Ramaiah, after his death, nor did he filed any petition seeking permission to deposit the rents into the Court. The petitioner has resorted to all possible tactics and has even gone to the extent of bringing about differences in the family of Pattabhi Ramaiah and got filed A.T.C. Nos. 14 and 15 of 1988.

9. The trial Court as well as the lower Appellate Court have examined the matter in a greater detail, than a civil suit and a regular appeal. The scope of interference by this Court in exercise of jurisdiction under Article 227 of the Constitution of India, is very limited. Even if a second view is possible, on facts, it cannot constitute a ground for interference.

10. Learned Counsel for the petitioner is not able to point out any error, in the findings recorded by the Courts below.

11. The C.R.P. is accordingly dismissed. There shall be no order as to costs.