
(1999) 06 AP CK 0077
In the Andhra Pradesh High Court
Case No : CRP No. 1496 of 1995

Veduruvarthi Venkata Chari	Vs	APPELLANT
Ramalapudi China Demudu		RESPONDENT

Date of Decision : 11-06-1999

Acts Referred:

Andhra Pradesh (Andhra Area) Agriculturists Relief Act, 1938 — Section 4
Andhra Pradesh Agricultural Indebtedness (Relief) Act, 1977 — Section 3

Citation : AIR 1999 AP 411 : (1999) 3 ALD 728 : (1999) 4 ALT 71 : (1999) 2 APLJ 184

Hon'ble Judges : C.V.N. Sastri, J

Bench : Single Bench

Advocate : Mr. K. Subramanyam, for the Appellant; Mr. E.V. Bhagiratha Rao, for the Respondent

Judgement

C.V.N. Sastri, J. 1. Heard the learned Counsel on both sides.

2. This is a revision filed by the plaintiff in a small cause suit which was dismissed by the lower Court. The suit is filed on the foot of a promissory note for a principal sum of Rs. 4,000/- payable with interest at 18% per annum. The defendant resisted the suit on several grounds, firstly, that the suit promissory note is not true, that the same was materially altered finally that the defendant being a small farmer entitled to the benefits of A.P. Act 45 of 1987, the suit is liable to be dismissed. The plaintiff however, claimed that he too is a small farmer and that the defendant is not a small farmer. The lower Court found that the suit promissory note is true and supported by consideration and it also held that there is no material alteration in the suit promissory note as alleged by the defendant. The Court further found that the defendant is a small farmer entitled to the benefits of Act 45 of 1987. The Court, however, negatived the plea of the plaintiff that he too is a small farmer. On the said findings the lower Court dismissed the suit.

3. In this revision the learned Counsel for the petitioner-plaintiff assailed the

finding of the lower Court that the plaintiff is not a small farmer. It is not in dispute that if the plaintiff is held to be a small fanner. He will be entitled for a decree in the suit notwithstanding the finding that the defendant is a small farmer. So the sole question for consideration in this revision is whether the plaintiff is a small fanner or not.

4. It is the case of the plaintiff that he owns and possesses only an extent of Acs. 1-30 cents of land and cultivation is the main source of livelihood. He denied the allegation of the defendant that he is carrying on business in gold. To prove his case, the plaintiff, besides examining himself as PW1, got marked the adangal for Fasli 1397 as Ex.A4 which goes to show that the plaintiff's family owns a total extent of Acs. 6-44 cents out of which the plaintiff's share comes to Acs. 1-30 cents only. The lower Court held that since the plaintiff admitted in his evidence that he is not personally cultivating the land but his father is getting the entire land cultivated and paying the plaintiff his share of income, the plaintiff cannot be considered to be a small farmer within the definition in the Act though the extent owned by him is well below the limit prescribed by the Act. The plaintiff's case is that he and his father and brothers have not divided the agricultural land held by them jointly and that the father is getting the land cultivated and paying the plaintiff and the other sons their respective shares in the income. From this the lower Court has concluded that the plaintiff does not satisfy the test of personal cultivation and as such he is not entitled to the benefits of the Act. I am afraid the lower Court has misdirected itself and committed an error in coming to this conclusion. "Personal cultivation" does not mean that the plaintiff himself should cultivate the land by his own labour. An agriculturist holding land may cultivate the same either by his own labour or by the labour of any member of his family or by servants or labourers on wages payable in cash or in kind. The expression "personal cultivation" occurring in Section 3(t) of the Act fell for interpretation by a Division Bench of this Court in *Doramma v. B.K. Rayudu*, 1987 (2) ALT 906 (DB) , wherein it was held that the expression "personally cultivates" occurring in Section 3(t) is to be interpreted to mean that the small farmer whose principal means of livelihood is the income derived from agricultural land should hold and cultivate it in such manner that he has a personal control over the cultivation in that extent of land and an agriculturist who holds the specified extent of land as per the Act is said to cultivate the same personally if he personally cultivates such land by his own labour or by the labour of any member of his family or by servants or labourers on wages payable in cash or in kind. It was held that cultivation with the help of a son, a relation or a member of the family also amounts to personal cultivation. The instant case is an a fortiori case where the father, who is the manager and the head of the joint family, is getting the land personally cultivated and paying the respective shares of the income to the sons. Personal cultivation of the entire land by the father is for and on behalf of all the family members and it can be regarded as personal cultivation of the plaintiff also. Though the defendant examined DW2 who stated that the plaintiff carries on business in gold, his ipse dixit, which is not

corroborated by any reliable material, is not entitled to much weight.

5. For the foregoing reasons, I am satisfied that the lower Court erred in holding that the plaintiff is not a small farmer within the meaning of the Act. It, therefore, follows that the plaintiff is entitled to a decree. However, since the defendant is found to be a small farmer, the plaintiff is entitled to claim interest only as per the provisions of A.P. Act 4 of 1938. Accordingly the suit is decreed with proportionate costs for the principal sum of Rs. 4,000/- with interest at 12-1/2% per annum till date of decree and thereafter at 6% per annum till realisation. The C.R.P. is accordingly allowed. Each party to bear its own costs in the C.R.P.