

(1995) 12 AP CK 0036
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 1700 of 1995

Yeruva Subba Reddy

APPELLANT

Vs

Commissioner of Endowments and Others

RESPONDENT

Date of Decision : 27-12-1995

Acts Referred:

Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987
— Section 75
Constitution of India, 1950 — Article 226

Citation : (1998) 1 ALT 579

Hon'ble Judges : P.S. Mishra, C.J.; B. Sudershan Reddy, J

Bench : Division Bench

Advocate : M. Ramachandra Reddy, for the Appellant; G.P. for Respondent Nos. 1, 2 and 4 and T. Balireddy, for the Respondent

Final Decision : Dismissed

Judgement

P.S. Mishra, C.J.—Learned single Judge has rejected the writ petition primarily on the ground 30 that the lessee from the endowment concerned has ceased to have renewal and thus there is a deemed surrender of the lease by him. Learned Counsel for the appellant has seriously questioned the above said findings. Before, however, we give our reasons why do we not deem it necessary to go into all sorts of the questions the learned Counsel for the appellant is trying to raise in the instant appeal particularly when there is no issue before us that notwithstanding the provisions of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, the A.P. Tenancy Act shall apply because the lease concerned has been an agricultural lease, we may recapitulate broadly the facts upon which the appellant has laid his claim and filed the instant writ petition.

2. The appellant, it is not in dispute, got a lease for a period of six years of a parcel of land. He got a renewal for another six years. He applied for a further renewal. The authorities, however, of the endowment concerned have 45 decided

to settle the land by auction. There is some mention that the appellant has participated in the auction but the appellant has disputed this fact and has tried to suggest that since there are others of his name in the village, there is some mistake in identifying him as one of the participants.

3. Assuming in favour of the appellant that the A.P. Tenancy Act has application, can he for the purposes of the Tenancy Act claim that he has become a cultivating tenant? The answer is a specific "No". Section 75 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act reads as follows:-

"75. Lease, sale of inams to be void in certain cases:-

(1) Any Lease for a term exceeding six years and any gift, sale, exchange or mortgage of an inam land granted for the support or maintenance of charitable or religious institution or endowment or for the performance of a religious or public charity or service, shall be null and void unless any such transaction, not being a gift, is effected with the prior sanction of the Government.

(2) Such prior sanction may be accorded by the Government where they consider that the transaction is--

(i) necessary or beneficial to the institution or endowment;

(ii) in regard to the land which is an uneconomical holding for the institution or endowment to own and maintain; and

(iii) the consideration thereof is adequate and proper.

(3)".

With the expiration of the first lease, thus, the appellant continued his possession under the second lease (renewal, so called by learned Counsel for the appellant). The validity under the above provision of law was for a period of six years only. If he is holding over after the expiry of the said period of six years, he is doing so illegally.

4. A person who is legally holding a property has chosen to move this Court and invoke the extraordinary jurisdiction of this Court for a direction that there should be an examination of the fact whether by dint of his two leases, which, of course, were continuous, he has become a cultivating tenant. We are of the view that the extraordinary plenary power of this Court is meant to protect the interest of such people only who have law on their side and not of those who want to transgress the law and perpetuate their possession upon a property which admittedly is meant for the purpose of a charitable and religious institution. We are satisfied that proceedings under Article 226 of the Constitution cannot be allowed to be used by persons who intend to perpetuate their possession upon a property in respect of which there is a clear command of law that persons concerned shall execute a lease for a period of not more than six years and if it is going to be for a period more than six years, it should be

done with the prior sanction of the Government. If a tenancy right is allowed in such a person beyond the period of the lease it will make 45 the prior sanction of the Government wholly redundant and without prior sanction of the Government by continuous lease for a period of six years, the claim will be that it is a lease for an indefinite period.

5. For the above reasons, we are not inclined to admit the appeal and dismiss the same in limini. The writ petition has rightly been dismissed by the learned single Judge and we find the above reasons in addition to the reason assigned by the learned single Judge for dismissing the writ petition.