

(1998) 02 AP CK 0077
In the Andhra Pradesh High Court
Case No : SA No. 1066 of 1998

Yettlapalle Sidda Reddy

APPELLANT

Vs

Kona Venkatramana

RESPONDENT

Date of Decision : 15-02-1998

Acts Referred:

Andhra Pradesh Agricultural Indebtedness (Relief) Act, 1987 — Section 4
Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 — Section 6

Citation : (1999) 3 ALD 695 : (1999) 2 ALT 231

Hon'ble Judges : Ramesh Madhav Bapat, J

Bench : Single Bench

Advocate : Mr. C. Ramachandra Reddy, for the Appellant; Mr. S.S. Bhatt, for the Respondent

Judgement

1. The appellant herein is the plaintiff who had instituted the suit OS No.446 of 1986 on the file of the Principal Junior Civil Judge, Punganur for recovery of certain amounts due under promissory note dated 10-4-1983. The suit promissory note is alleged to have been executed by the respondent herein (Defendant in the suit) in favour of the appellant-plaintiff. The trial Court on evidence decreed the suit of the plaintiff. Aggrieved by the aforesaid judgment and decree of the trial Court in OS No.46 of 1986 the defendant-respondent herein carried the matter in appeal by filing AS No.52 of 1992 on the file of the Addl. District Judge, Madanapalle. The learned Judge allowed the appeal preferred by the defendant and set aside the judgment and decree passed by the trial Court in OS No.446/86. Aggrieved by the said judgment and decree in AS No.52/ 92, the plaintiff-appellant herein has filed this Second Appeal.

2. Sri C. Ramachandra Reddy, learned Counsel appearing on behalf of the appellant-plaintiff submitted at the bar that the first appellate Court erred in law in allowing the appeal. The learned Counsel submitted that the defendant himself has given admission in the evidence that he holds more than eight acres of land and therefore he will not be entitled to the benefit under Act 45 of 1977. The

learned Counsel further submitted that once it is held that the defendant holds more than eight acres of land, he cannot be styled as "small farmer" and Act 45 of 1977 (sic 1987) would not come to his rescue. Learned Counsel further submitted at the bar that the defendant-respondent herein produced Ex.B1-pattadar pass book which shows that the defendant is a holder of Ac.3.70 cents of dry land and Ac.0.65 cents of wet land. All the entries made in the pattadar pass book are held to be correct; even in that event it will not benefit the defendant as the defendant has orally stated in his evidence that he had more than eight acres of land. It appears from the judgment of the first appellate Court that the appellate Court held that Ex.B1 has presumptive value u/s 6 of the A.P. Record of Rights in Land Act, 1971. The oral evidence might have been given by the defendant by mistake who is a rustic and villager and therefore the first appellate Court ignored the evidence of the defendant herein.

3. The learned Counsel for the appellant-plaintiff has not been able to show that if at all the defendant holds more land than what is noted in Ex.B1, it was (sic was not) the duty of the plaintiff to produce the revenue records in the trial Court to rebut the presumption which arises u/s 6 of the above said Act. Such a step does not appear to have been taken by the plaintiff. Therefore, this Court finds no reason to interfere with the order of the first appellate Court.

4. The second point raised by the learned Counsel for the appellant is that the appellant-plaintiff is also a small farmer, therefore Act 45 of 1977 (sic 1987) will not help the defendant. But it is seen from the judgment of the first appellate Court that the plaintiff holds large extents of land. The appellate Court relied upon three documents Exs.B3 to B5. Ex.B3 is a certified copy of No.10(1) extract showing the properties possessed by the plaintiff. Ex.B4 is certified copy of No.2 adangal and Ex.B5 is suit register extract in OS No. 177 of 1977. The lower appellate Court also held that in addition to the lands held by the plaintiff, he is also a money-lender. In order to prove the said contention the defendant has been able to produce certified copies of different suits filed by (sic against) different parties by the plaintiff herein. One such document is Ex.B5 suit register extract in OS No.179/1977. It is in evidence that [he plaintiff had given loan to three different parties and therefore it must be held that the plaintiff is a money-lender and once it is held that he is a money-lender he cannot be styled as a "small farmer". In these circumstances the second contention is also rejected.

5. Moreover, no substantial question of law is made out by the appellant in this second appeal to be decided by this Court as in this particular case the first appellate Court decided the appeal on the basis of factual aspects.

6. The Second Appeal is, therefore, dismissed at the admission stage.