
(2009) 04 SC CK 0253

Supreme Court of India

Case No: Civil Appeal No's. 1849 and 1850 of 2002

V. Laxminarasamma

APPELLANT

Vs

A. Yadaiah (Dead) and
Others

RESPONDENT

Date of Decision: April 29, 2009

Citation: (2009) 14 JT 488 : (2009) 5 SCC 478

Hon'ble Judges: Asok Kumar Ganguly, J; Arijit Pasayat, J

Bench: Division Bench

Advocate: Y. Raja Gopala Rao, Annam D.N. Rao, Manoj Saxena, Rahul Shukla, T.V. George and Nikhil Nayyar, for the Appellant;

Final Decision: Dismissed

Judgement

Arijit Pasayat, J.

During the hearing of these appeals it was noticed that two decisions of this Court rendered by two learned Single Judges expressed contrary views and the matter was referred to a larger Bench. The dispute relates to the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 (in short "Act"). The two decisions which were referred to by the Bench while making reference to a larger Bench were 283380 and 302727 . The three Judge Bench by judgment dated 3.3.2009 held that Kunda Lakshmana Bapuji case (supra) lays down the correct law and N. Srinivasa Rao does not. The reference was accordingly answered. The three Judge Bench was of the view that the tribunal/Special Court constituted under the Act has requisite jurisdiction to go into the question of adverse possession. The three Judge Bench also noticed that it is one thing to say that a summary proceeding cannot be resorted to when a noticee resists bonefide dispute involving complicated questions of title and his right remain in possession of the land. But, it is another thing to say that although both the Special Court and/or Tribunal which has all the powers of a civil court would not be entitled to enter into such a contention. After the reference was answered this matter is placed before us.

2. So far as the appellant is concerned the following finding have been recorded by the Special Court:

25. In view of the fact that no document of the so-called gift of the temples and the lands having been made in favour of the ancestors of respondent 41, have been filed in the court and also in view of the statement of respondent 41 that she has been appointed as a "Poojari" for a monthly remuneration of Rs. 17.22 by the Revenue Divisional Officer, Hyderabad West and the remarks contained in the pahanics as well as in the Endowment register of 50 Years old showing the land as inam land of Dhaibagh temple, we are convicted that the petition-schedule land belongs to the applicant-temple.

27.xxxxxSince the respondent 41 and her ancestors have been Poojaris of the temples, there shall be no order of eviction against her. We feel that in all fairness, some time should be given to the respondents for demolishing the houses and for taking away the structures on the petition-schedule lands.

3. In view of the judgment of the three Judges-Bench the conclusion of Special Court are to be operative. The appeal is accordingly disposed of.

Crl. A. No. 1850/2002:

4. De-linked.