

(1996) 12 AP CK 0002

Andhra Pradesh High Court

Case No: C.R.P. No. 4201 of 1992

Jupudi Bhushanam

APPELLANT

Vs

Joint Collector and Others

RESPONDENT

Date of Decision: Dec. 11, 1996

Acts Referred:

- Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 - Section 32(1), 38E(2)

Citation: (1997) 1 ALD 440 : (1997) 1 ALT 627

Hon'ble Judges: K.B. Siddappa, J

Bench: Single Bench

Advocate: S. Lakshma Reddy, for the Appellant; T. Veerabhadrayya, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

K.B. Siddappa, J.

This Revision is filed against the order passed by the Joint Collector, Khammam in Case No. C4 (M)2/90. The Revision Petitioner filed a petition before the Mandal Revenue Officer, Sattupalli, for restoration of his possession in respect of the land in Survey Nos. 732, 733 to 738, 832 to 835, situated at Baithupalli Village of Khammam District u/s 32(1) of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act. The Mandal Revenue Officer considered the same on merits and held that the father of the petitioner and after him the petitioner himself are the protected tenants. They were to be in possession of the lands in question. Subsequently, it seems that the petitioner was displaced from the land and he filed a petition for restoration of possession. Such a remedy is not available to him. According to the Mandal Revenue Officer, once Section 38-E Certificate is issued, the protected tenant becomes the owner. Subsequently possession does not entitle the owner seeking remedy under the Tenancy Act. He has to go to the Civil Court.

2. This finding of Mandal Revenue Officer was accepted by the Joint Collector. He held that the ownership was transferred during 1955-56 to the Appellant. Thereafter the Appellant was in continuous possession for several years. Therefore, the benefit of the Amended Act of 1979 does not apply to the case. Aggrieved by the said order, the present Revision is filed.

3. The learned counsel appearing for the Revision Petitioner submitted that the Appellant/Petitioner is a protected tenant. He was in possession of the land and subsequently he was dispossessed by the village elders and the respondent here in was given the possession in lieu of his archakatvam services to the temple. According to him the subsequent dispossession also comes under the purview of Section 32 and Section 38-E(2) of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act.

4. In support of his contention, he relied upon a Full Bench Judgment of this Court reported in Sada v. The Tahsildar, Utnoor, Adilabad District 1987 (2) ALT 749 : 1987 (2) APLJ 749. He submitted that this Act is a State Legislation. Therefore, the protected tenant whenever dispossessed can resort to these provisions.

5. I am unable to agree to the submission. Once Section 38-E Certificate is issued, the protected tenant becomes the owner. For any subsequent dispossession he has to resort to the Civil Court, He cannot rely upon the provisions of the Tenancy Act. The facts of the Full Bench Judgment are quite different and this case is distinguishable on facts. The lower Tribunals held concurrently against the petitioner on this aspect. I do not want to interfere with the order of the Collector.

6. The Revision is dismissed. No costs.