

(2006) 11 AP CK 0049
Andhra Pradesh High Court
Case No: SA No. 313 of 1995

Koneti Ramachandra and Others

APPELLANT

Vs

G. Anjappa (died) by LR's.

RESPONDENT

Date of Decision: Nov. 8, 2006

Acts Referred:

- Andhra Pradesh (Andhra Area) Tenancy Act, 1956 - Section 2

Citation: (2007) 3 ALD 40 : (2007) 4 ALT 313

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: T.S. Anand, for the Appellant; N. Pramod, (Indus Law Firm), for the Respondent

Final Decision: Dismissed

Judgement

L. Narasimha Reddy, J.

The legal representatives of the sole plaintiff in O.S. No. 429 of 1979 on the file of the Principal District Munsif, Madanapalle, are the appellants. They feel aggrieved by the judgment and decree passed by the Court of Additional District Judge, Madanapalle, in A.S. No. 21 of 1989. For the sake of convenience, the parties are referred to, as arrayed in the suit.

2. The plaintiff pleaded that the suit schedule property admeasuring about 11/2 acres of Punganur Village of Chitoor District, was owned by one Smt. Rani Nanjammannidevi, the mother of the 1st defendant, and that the land was leased, in, or about 1940, to one Sri Koneti Manikyarayappa, the father-in-law of the plaintiff. It was pleaded that ever since then, the land was in possession and enjoyment of the lessee, and since he died somewhere in 1972, being the sole legal heir, the plaintiff succeeded to the tenancy. The lessor is said to have died, sometime 1974 and thereby, the 1st defendant became the lessor. The plaintiff complained that the 3rd defendant, claiming to be the transferee of the land, and the 2nd defendant, the maidservant of the 1st defendant, started interfering with

his possession of the suit schedule property. He claimed the relief of perpetual injunction against all the three defendants.

3. On behalf of the defendants, a common written statement was filed. It was pleaded that Rani Nanjammannidevi executed a Will dated 26-1-1966, bequeathing the property to Defendants 1 and 2, and they in turn, entered into an agreement of sale dated 24-10-1978 with the 3rd defendant and delivered possession of the suit schedule property. The sale deed is said to have been executed on 25-12-1978. The plea as to existence of tenancy was flatly denied and they pleaded that at no point of time, the plaintiff or his father-in-law were in possession of the suit schedule, either as tenants or otherwise. It was their case that the father-in-law of the plaintiff was the owner of the land adjacent to the suit schedule property and he was never their tenant. Objection as to the jurisdiction of the civil Court to entertain the suit was raised.

4. Through its judgment dated 30-9-1988 the trial Court decreed the suit. The 3rd defendant filed A.S. No. 21 of 1989. The appeal was allowed on 7-4-1995, holding that the trial Court lacked the jurisdiction.

5. Sri T.S. Anand, learned Counsel for the plaintiff submits that when there is a serious dispute about the existence of relationship of landlord and tenant, the only forum that can adjudicate upon that dispute is the civil Court, and the judgment of the lower appellate Court cannot be sustained in law. He contends that the 3rd defendant does not answer the description of landlord, and whatever may have been the objection as to the maintainability of the suit, vis-a-vis the Defendants 1 and 2, it was certainly maintainable against the 3rd defendant. He contends that the possessory rights of plaintiff were so firmly established, that hardly there existed any doubt as to the tenancy. He has relied upon certain precedents, in support of his contentions.

6. Sri N Pramod, learned Counsel for the defendants, on the other hand, submits that at no point of time, the plaintiff or his father-in-law were in possession of the suit schedule property, much less, they were the tenants. He contends that the only relief claimed by the plaintiff was, the one, for perpetual injunction, and the tenancy Court alone is vested with the jurisdiction to grant such a relief. He submits that the plaintiff did not seek any declaration that he is the tenant over the suit schedule property and in that view of the matter, there was no occasion for him to approach the civil Court. Learned Counsel points out that even according to the averments in the plaint, the 3rd defendant purchased the suit schedule property, and the doubt expressed, as to the rights of the 3rd defendant, is without any basis. It is also his case that even while the appeal was pending, the plaintiff filed ATC No. 6 of 1985, seeking permission of the Court to deposit the rents, and the same was dismissed, on finding that no relationship of tenant and landlord exists.

7. As many as 9 issues were framed, touching upon the questions, such as, the truth of the tenancy, set up by the plaintiff; maintainability of the suit; survival of the cause of action, in view of the death of the plaintiff; jurisdiction of the civil Court to entertain the suit. On behalf of the plaintiff, PWs. 1 to 4 were examined and Exs.A-1 to A-64 were marked. The documentary evidence is mostly in the form of letters, said to have been written by Rani Nanjammannidevi, to the father-in-law of the plaintiff (Exs.A-22 to A-40 and Exs.A-45 to A-54). Exs.A-1 to A-19 are money order acknowledgments. On behalf of the defendants DWs. 1 to 3 were examined and Exs.B-1 to B-25 were marked. Exs.B-4 to B-23 are cist receipts. On dismissal of the suit, the 3rd defendant, who purchased the land from Defendants 1 and 2, filed the appeal. The appellate Court framed the following points for its consideration:

1. Whether the civil Court has jurisdiction to entertain the suit?
2. Whether the plaintiff is a defaulter and if so whether he is entitled for injunction prayed for?
3. Whether the judgment and decree of the trial Court is just and valid?

It answered Points 1 and 3 in favour of the 3rd defendant and refused to answer Point No. 2, on the ground that the same was not supported by any pleadings in the suit. Ultimately, the appeal was allowed.

8. The main contention advanced before this Court is, about maintainability of the suit. It is contended that when there exists dispute about the relationship of tenant and landlord, it is only the civil Court, that can adjudicate upon it, and not a tenancy Tribunal.

9. Under the A.P. Tenancy Act, relevant provisions are made, defining the rights and obligations of the tenants and landlords, in respect of agricultural lands, and Special Tribunals are constituted. Some doubt existed as to whether the Tribunal constituted under the Act had the jurisdiction to grant the relief of declaration and injunction. In *Boppudi Viswanadham v. Sri Lakshminarasimhaswamivari Temple* 1981 (1) APLJ 357, this Court reviewed the case-law on the subject and held that in view of the judgment of a Division Bench of this Court in *R. Raghava Rao v. Tenancy Tahsildar, Tanuku* (1976) 1 APLJ 156, the Tribunal under the Act had the power to grant such reliefs. In that case, the suit filed by a tenant was for the relief of perpetual injunction. The trial Court and the lower appellate Court took the view that they do not have the jurisdiction to entertain the suit, having regard to the relief claimed in it. The second appeal filed by the tenant was dismissed by this Court. In [Nimmagadda Venkaiah and Others Vs. Sri Sangameswara Swamy Temple and Others](#), an identical view was taken by this Court.

10. It is no doubt true that a Full Bench of this Court in [Dontireddy Venkata Reddy Vs. Bhimavarapu Bhushireddy and Others](#), held that, where serious dispute exists, as to the very relationship of landlord and tenant, the question must be decided by

civil Court, and not by tenancy Tribunal. The same is the view expressed by the Supreme Court in [Magiti Sasamal Vs. Pandab Bissoi,](#) . Had the complaint of the plaintiff in the instant case been that there existed a dispute about the relationship of landlord and tenant, and any declaratory relief was sought, there would have been some possibility for applying the ratio laid down in the two judgments referred to above. The only relief claimed in the present suit is the one, for perpetual injunction against the defendants. As observed earlier, through a catena of decisions, this Court held that it is the Tenancy Tribunal alone, that is conferred with the jurisdiction to grant the relief of perpetual injunction.

11. An effort is made by the learned Counsel for the plaintiff to convince the Court, that the 3rd defendant does not answer the description of landlord, and the suit filed for the relief of injunction against a stranger can certainly be maintained. Here again, the submissions do not receive any support in the pleadings. The plaintiff specifically pleaded that the 3rd defendant purchased the suit schedule property from Defendants 1 and 2. He made a reference to the agreement of sale, and sale deeds, though not with reference to the debts. The record discloses that much before the suit was filed, the property stood transferred in favour of the 3rd defendant. Therefore, there is no basis for the contention that the 3rd defendant does not answer the description of the landlord. Even otherwise, once the 3rd defendant is found to be claiming his rights through the 1st defendant, the owner of the land, he fits into the definition of landlord under subsection (f) of Section 2 of the Act. The expression used in the definition is "person deriving rights" in contradistinction to "person deriving title". To answer the description of landlord, one does not have to be a person, holding title over the land, and it would be sufficient, if he derives the right from the recognized owner. At any rate, the 3rd defendant had derived title also.

12. On his own accord, the plaintiff filed ATC No. 6 of 1985 before the Tenancy Tribunal, with a view to enforce his rights of tenancy vis-a-vis the land. He admitted that there existed default in payment of rent. The Tribunal dismissed the ATC. The appeal filed against it, is said to have been dismissed, and it is stated that the writ petition is pending. The lower appellate Court rightly rejected the plea of the 3rd defendant, to declare the plaintiff as defaulter, since that plea was not raised before the trial Court. This Court does not find any basis to interfere with the judgment rendered by the lower appellate Court.

13. The second appeal is accordingly dismissed. There shall be no order as to costs.