(2006) 07 AP CK 0021

Andhra Pradesh High Court

Case No: CMSA No. 27 of 2006

Myla Gantaiah		APPELLANT
	Vs	
Kadali Peddiraju		RESPONDENT

Date of Decision: July 10, 2006

Acts Referred:

- Andhra Pradesh Assigned Lands (Prohibition of Transfer) Act, 1977 - Section 3

Citation: (2006) 6 ALD 83 : (2006) 6 ALT 236

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: A.V. Sesha Sai, for the Appellant;

Final Decision: Dismissed

Judgement

L. Narasimha Reddy, J.

1.The appellant challenges the judgment, dated 16-2-2006, rendered by the learned VI Additional District Judge, (Fast Track Court), Narsapur, in A.S. No. 31 of 2005. The said appeal arose out of an order passed by the Court of Senior Civil Judge, Narsapur, in E.A. No. 296 of 2004 in E.P. No. 110 of 2004 in O.S. No. 64 of 2002.

2. The respondent filed the suit against the petitioner for recovery of certain amount. The suit was decreed. After the decree became final, the respondent filed E.P. No. 110 of 2004 and obtained attachment against standing crop over the land in R.S. No. 511/4 of Vemuladeevi Village. The appellant filed E.A. No. 296 of 2004 for raising attachment. He pleaded that the land, on which the standing crop was existing, was assigned to his father and after the death of his father, he inherited it. According to him, the prohibition contained in Section 3 of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, (for short "the Act") applies even to standing crops. The Executing Court rejected the application. The appeal preferred by the respondent was also rejected.

3. Sri A. V. Sesha Sai, learned Counsel for the appellant, submits that the very object of legislating the Act was to protect the interests of the assignees under all possible circumstances and if the standing crop permitted to be attached and proceeded against, the very purpose would be defeated. He placed reliance upon the judgment of this Court in B. Ramaiah v. Mandal Revenue Officer, Puttaparthi 1990 (1) ALT 290.

4. It is true that the Act was brought about as a social measure to ensure that the landless poor, who are assigned small extents of land, are not deprived of the same. Section 3 of the Act takes in its sweep, all possible transfers, be it, by act of parties or by operation of statutes or through decrees of Courts. The emphasis is to ensure that ownership of the assigned land is kept in tact with the assignee, and the land is galvanized from his liabilities.

5. However, it is rather difficult to accept the contention that a crop or the benefit derived from the assigned land has also to be kept out of the reach of any legal proceedings. Such an interpretation would amount to enlarging the scope of Section 3 of the Act and adding new dimension to it.

6. The assignment of land by the Government is to enable the assignee to derive benefit out of it through agriculture or other related activities. It cannot be said that the Act, or the rules made therein regulate the manner in which the assignee must utilize the agriculture produce or other benefits derived out of the land. For instance, if the assignee had purchased fertilizers or seeds on credit, with a specific understanding that he would discharge the liability from out of the produce derived out of the land, or even out of the sale proceeds of the produce, he cannot take shelter under the provisions of the Act and Rules and evade the same. The creditor, at the most, be disabled to proceed against the land but not against the standing crop or the harvested produce.

7. In B. Ramaiah"s case (supra), this Court had only reiterated the principle underlying the Act, and held that an assignee cannot be deprived of the land under any circumstances. There is nothing in that judgment to indicate that the benefits derived out of the land in the form of crop or other related crops etc., are also out of the reach of legal proceedings.

8. For the foregoing reasons, the C.M.S.A. is dismissed. There shall be no order as to costs.