

**(2005) 06 AP CK 0019**

**Andhra Pradesh High Court**

**Case No:** C.R.P. No. 4016 of 1997

Voddevolu Venkaiah

APPELLANT

Vs

Narayanam Venkata  
Seshacharyulu (died) and Others

RESPONDENT

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**Date of Decision:** June 28, 2005

**Acts Referred:**

- Constitution of India, 1950 - Article 227

**Citation:** (2005) 5 ALD 11 : (2005) 6 ALT 207

**Hon'ble Judges:** L. Narasimha Reddy, J

**Bench:** Single Bench

**Advocate:** M.V.S. Suresh Kumar, for the Appellant; R.V. Subba Rao, for the Respondent

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### **Judgement**

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

This Revision Petition is filed under Article 227 of the Constitution of India by the tenant in respect of Ac. 13.12 cents of agricultural land at Mallavarappadu Village, Tangutur Mandal, Prakasam District. The original landlord, one Mr. Narayanam Venkata Seshacharyulu, died so, much so, some of his legal representatives also died.

2. Respondents 1 and 2 filed A.T.C. No. 46 of 1990 before the Special Officer For Tenancy Cases, Ongole for eviction of the petitioner from the land, on the ground that the petitioner committed default in payment of the rent for the year 1988-89. The respondent pleaded that the rent per annum up to the year 1970 was Rs. 2,400/- and it was enhanced to Rs. 2,700/- by 1974 and with the agreed enhancements, it became Rs. 3,500/- for the year 1988-89. They alleged that the petitioner did not pay the rent, in spite of several demands and sought for eviction.

3. The petitioner resisted the claim by contending that the agreed rent payable for the entire land was only Rs. 1,300/- per annum but not Rs. 3,500/-, as claimed. The Tribunal found that there was default on the part of the petitioner and directed his eviction through its order, dated 22-9-1992. Aggrieved thereby, the petitioner preferred A.T.A. No. 50 of 1992 before the District Judge, Ongole. The appeal was rejected through judgment, dated 3-9-1997.

4. Sri M.V. S. Suresh Kumar, learned counsel for the petitioner submits that there was nothing on record to disclose that the rent payable for the land in question was Rs. 3,500/- per annum and in the absence of the same, there was no basis for the findings recorded by the Tribunal as well as the appellate Court. He contends that the rights of the petitioner under the beneficial legislation viz., The A.P. (Andhra Area) Tenancy Act, 1956, (for short "the Act") cannot be defeated on the basis of surmises or imaginations.

5. Sri R.V. Subba Rao, learned counsel for the respondents, on the other hand, submits that the respondents adduced clinching evidence in support of their contention that the rent for the year 1970 was Rs. 2,400/-, for the year 1974 was Rs. 2,700/- and that it was Rs. 3,500/- for the year 1988-89. He contends that Exs. A-1 to A-6 clearly support the plea of the respondents.

6. Strictly speaking, the Civil Revision Petition stood dismissed long back against respondents 4 to 7 for default. Since the cause of action is inseparable, the C.R.P. stood dismissed as a whole. Despite the same, the Revision is heard on merits, lest the dismissal for default gives scope for the petitioner to protract the litigation for few more decades.

7. The subject matter of the revision is Ac. 13.12 cents of wet land in Mallavarappadu Village, Tangutur Mandal, Prakasam District. The petitioner did not dispute that he is the tenant in respect of that said land. The respondents initiated proceedings under the Act for eviction of the petitioner, on the ground that the petitioner committed default in payment of rent for the year 1988-89. The application was resisted by the petitioner by contending that the rent payable for the year 1988-89 was Rs. 1,300/- only. On behalf of the respondents, P.Ws.1 to 3 were examined. Respondents maintained accounts meticulously and filed the entries for the years 1970 and 1974, which were marked as Exs.A-1 to A-3. For the year 1974, the petitioner himself executed a pronote, marked as Ex. A-5, for a sum of Rs. 300/- after paying the rent of Rs. 2,400/-. It discloses that the rent for the year 1974 was Rs. 2,700/-.

8. The petitioner did not file any receipts for any year whatsoever. He has adduced oral evidence by examining himself as well as R.Ws.2 and 3. Payment of rent for such a vast extent of land cannot be without receipts. If the petitioner wants protection under the Act, it is incumbent upon him to prove that he complied with the provisions of the same. The Act was not intended to permit the tenants to enjoy the lands without payment of rents.... At any rate, he did not place any material

before the Tribunal to show that the rent was Rs. 1,300/- for the year 1988-89 or that he paid that amount. It is just unimaginable that the rent for an extent of Ac. 13.12 cents of fertile land, that too, as late as in 1988-89 is Rs. 1,300/-. Even if the average yield is taken as 25 bags, the yield would be about more than 300 bags and the cost of each bag, at the relevant point of time, was not less than Rs. 300/- to Rs. 400/-. The rent pleaded by the petitioner, would hardly constitute 1% of the yield. The respondents clinchingly proved that the rent for the years 1970 and 1974 was Rs. 2,400/- and Rs. 2,700/- respectively. The petitioner was not able to point out that there was any agreement between himself and the respondents to slash the rent almost to half, after fifteen years.

9. The petitioner enjoyed the benefit of the land for the past two generations, to the detriment of the respondents. This Court does not find any basis to interfere with the concurrent findings on the question of rent.

10. Hence, the Civil Revision Petition is dismissed, and the stay granted by this Court is dissolved. It shall be open to the respondents to assume the possession of land, in question, forthwith, without the necessity of initiating any further proceedings. There shall be no order as to costs.