

(2001) 10 AP CK 0170

Andhra Pradesh High Court

Case No: C.R.P. No. 3769 of 1999

Nukalapati
Radhakrishna Reddy

APPELLANT

Vs

Kadiyala Venkaiah and
Others

RESPONDENT

Date of Decision: Oct. 5, 2001

Acts Referred:

- Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 - Section 10, 21

Citation: (2002) 1 ALD 356 Supp : (2001) 5 ALT 536

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: N. Subba Reddy, for the Appellant; P. Sridhar Reddy and G.P. for Land Ceiling, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

L. Narasimha Reddy, J.

This Civil Revision Petition (CRP) is filed u/s 21 of the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short "the Act"), against the order of the Land Reforms Appellate Tribunal, Nellore (for short "the appellate Tribunal"), in L.R.A. No. 3/86, dated 23-6-1997.

2. The petitioner i.e., Nukalapati Radhakrishna Reddy, filed a declaration under the Act in respect of the land held by him and it is not in dispute that he was declared as not holding any land in excess of ceiling limit. His mother Venkata Subbamma also filed a separate declaration. The Land Reforms Tribunal, Nellore (for short "the primary Tribunal") passed an order to the effect that she holds 0.6377 Standard Holdings in excess of ceiling limit.

The said order became final. On her death, the petitioner herein succeeded to her property together with the liability to surrender the excess land.

3. It appears that in the proceedings initiated u/s 10 of the Act, the petitioner herein included Survey No. 398/1 as one of the items for surrender. There was some hesitation on the part of the authorities to accept this on the ground that the land in question was not in possession of the declarants. Be that as it may, at this stage, the respondents 1 to 11 herein came forward with an objection stating that the said item of land together with the remaining extent of land was purchased by one Sri Kadiyala Venkaiah, the 1st respondent on 25-2-1955, under an agreement of sale and he in turn sold part of the same to them and to some other persons. The substance of their claim was that inasmuch they are the owners and possessors of that item of the property, the same cannot be accepted for surrender and requested that item to be excluded from the list of properties to be surrendered.

4. The primary Tribunal through its order dated 18-2-1986 rejected the claim of the unofficial respondents herein. Thereupon they filed L.R.A. No. 3 of 1986 before the appellate Tribunal. The appellate Tribunal in turn allowed the appeal through order dated 23-6-1987 holding that the respondents herein have established their claim in respect of the land in question and that the same is liable to be deleted from the list of items for surrender. This was to result in the petitioner surrendering equal extent of land from other unsundered items. Thus, feeling aggrieved by the order of the appellate Tribunal, the petitioner filed this CRP.

5. Sri N. Subba Reddy, the learned Senior Counsel for the petitioner submits that the main basis for the appellate Tribunal in allowing the appeal was that the respondents herein were not given an opportunity to substantiate their case. If that be so, according to the learned Senior Counsel, the only option open to the appellate Tribunal was to remit the matter to the primary Tribunal so that all questions of facts and law could have been agitated before the primary Tribunal and appropriate decision could have been rendered by the primary Tribunal itself. He, therefore, submits that even if the finding of the appellate Tribunal to the effect that the respondents were not given an opportunity before the primary Tribunal, the only course open to the appellate Tribunal was to remit the matter to the primary Tribunal and the order under revision cannot be sustained.

6. The learned Counsel for the respondents Sri P. Sridhar Reddy, on the other hand, submits that once the appellate Tribunal found that the respondents were denied the opportunity to put forward their case, the view taken by the primary Tribunal was unsustainable on the face of it and the appellate Tribunal, with a view to shorten the proceedings and litigation, had chosen to undertake the enquiry into the validity or otherwise of the claims of the respondents and on being satisfied about the validity of the claim, it allowed the appeal and, therefore, the order under revision does not call for any interference by this Court.

7. From a reading of the order under revision, it is evident that the appellate Tribunal was impressed by the fact that the primary Tribunal did not issue the unofficial respondents a notice. Following are the observations of the appellate Tribunal:

"The learned Government Pleader could not show any notice which was said to have been served on Kadiyala Venkaiah. When the appellants are disputing that no notice was served on Kadiyala Venkaiah, then it was obligatory on the part of the respondents to show that in fact a notice had been served on Kadiyala Venkaiah."

Having thus observed, the appellate Tribunal had undertaken appreciation of the documentary evidence that has been put forward by the respondents. Having appreciated the evidence, it had arrived at a conclusion that there is strength in the claim of the respondents and accordingly allowed the appeal.

8. Having regard to the facts and circumstances of the case, I am of the view that the course of action adopted by the appellate Tribunal was not proper. When it recorded a finding that the respondents were not issued a notice and that has resulted in deprivation of an opportunity to them to put forward their case, it ought to have simply remanded the matter to the primary Tribunal. Had the matter been remanded to the primary Tribunal, the petitioner as well as the respondents could have adduced the oral as well as documentary evidence before the primary Tribunal in support of their respective claims. There is no record to show that the appellate Tribunal had recorded any oral evidence. The documents by themselves cannot be taken on their face value. One important aspect of the matter is that the documents that had been put forward in support of the respective claims are not published (sic. public) or registered ones. They are in the nature of agreements of sale and certain entries in the revenue records. Unless they are supported by oral evidence, the contents of the documents cannot be taken on their face value. Therefore, the exercise undertaken by the appellate Tribunal in arriving at a conclusion on the basis of those documents cannot be sustained. In these circumstances, the order of the appellate Tribunal is said aside and the matter is remanded to the primary Tribunal for fresh adjudication. The parties shall be given an opportunity to adduce oral and documentary evidence in support of their respective claims. The CRP is accordingly allowed, but in the circumstances of the case, there shall be no order as to costs.