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Court : Andhra Pradesh

Decided On : Oct-05-2001

Reported in : 2001(6)ALD434; 2001(6)ALT319

Judge : L. Narasimha Reddy, J.

Acts : Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 - Sections 8 and 10

Appeal No. : CRP No. 3540 of 1999

Appellant : Rasheed Mohammad Hussain

Respondent : Govt. of Andhra Pradesh and anr.

Advocate for Def. : Government Pleader for Land Ceiling

Advocate for Pet/Ap. : J. Prabhakar, Adv.

Disposition : CRP allowed accordingly

Judgement :
ORDER

1. This civil revision petition (CRP) arises under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short 'the Act').

2. The petitioner filed a declaration under Section 8 of the Act. After various proceedings, it was ultimately decided that he holds an extent of 14.9055 standard holdings in excess of ceiling limit. That finding having become final, the proceedings under Section 10 of the Act were initiated for surrender of the lands and substantial extents of land have been surrendered. The dispute arose only in respect of land in respect of Sy.No. 140 of Gurramguda village, Chandrugonda Mandal, Khammam District.

3. According to the petitioner, he sold an extent of Ac.40-00 of land in Sy.No. 140 to some third parties, he offered to surrender alternative lands to an extent of Ac.13-00 in Sy.No. 140, Ac.17-5 gts. in Sy.No. 144 and Ac.10-00 in Sy.No. 150 i.e., a total extent of 40-5 guntas, and that the Land Reforms Tribunal, Khammam (for short 'the primary Tribunal') had rejected the same on the ground that the petitioner had failed to establish his title in respect of the alternative lands which were sought to be surrendered. An order to that effect was passed on 28-11-1996. In fact the 3rd parties who are the purchasers of the lands from the petitioner have also come forward with separate applications almost supporting the claim of the petitioner.

4. Aggrieved by the order of the primary Tribunal dated 28-11-1996, thepetitioner filed LRA No. 87/96 before the Land Reforms Appellate Tribunal, Warangal (for short 'the appellate Tribunal'). The appellate Tribunal, through its order dated 19-4-1996, rejected the contention of the petitioner holding that the petitioner failed to establish his title in respect of the lands offered to surrender and accordingly dismissed the appeal. The petitioner challenges the order of the appellate Tribunal in this CRP.

5. Sri J. Prabhakar, the learned Counsel for the petitioner submits that the primary Tribunal had included the lands in Sy.Nos. 140, 144 and 150 along with several other items of land in the holding of the petitioner and that itself is sufficient to hold that the petitioner had title over the said land. If the objection of the primary Tribunal that the petitioner does not have title in respect of the said land, that should result in deletion of those items from the holding. He further contended that the primary Tribunal cannot blow hot and cold and include certain items of land as

being held by the declarant and on the other hand refuse to accept surrender of the same suspecting the title.

6. The learned Government Pleader for Land Ceilings opposes the contentions and submits that the mere fact that a particular item of land has been included in the holding of the declarant itself is not sufficient to prove the title of the declarant over the same and in the surrender proceedings, the primary Tribunal is at liberty to select such lands which are beyond any cloud of doubt.

7. It is evident from the record that the petitioner was declared to be holding an extent of 14.9055 standard holdings in excess of the ceiling limit. He surrendered various items of lands. The declarant who is decided to have the lands in excess of ceiling limit is not precluded from alienatingcertain items of properties. The only difference is that such alienation will not take away the liability of the declarant to surrender the lands to the extent he was declared as holding in excess of the ceiling limit. One of the items that were included in the holding of the petitioner is the land, in Sy.No. 140. The petitioner had sold away an extent of Ac.40-00 in Sy.No. 140. This sale is not going to have any effect on the extent of the land to be surrendered by him. He offered to surrender Ac.40-5 gts ofland in three different survey numbers i.e., Sy.Nos. 140, 144 and 150. It was not in dispute that the lands in these survey numbers were computed to the holding to the petitioner and to that extent he became the surplus holder. It does not lie in the mouth of the primary Tribunal to say that the lands in the said three survey numbers are fit to be included to the holding of the petitioner, but not fit to be accepted for surrender. It is rather strange that the primary Tribunal as well as the appellate Tribunal insisted that the petitioner ought to have established the title in respect of the lands in those three survey numbers. In a way, they assume that inasmuch as the petitioner failed to establish his title in respect of those lands, he has no title to the same. If that were to be so, they ought not to have included them in the holding of the petitioner. If the primary Tribunal or the appellate Tribunal consider an item of land fit to be included to the holding of a declarant, they should be equally ready and prepared to accept the same if offered for surrender. The orders of the primary as well as the appellate Tribunal cannot be sustained either on facts or in law. The order of the primary Tribunal dated 28-11-1996 and the appellate

Tribunal dated 39-4-1999 are set aside. The primary Tribunal is directed to consider the feasibility of acceptance of the lands in Sy.Nos. 140, 144 and 150 of Gurramguda Village, Chandrugonda, Mandal, Khammam District, to a total extent of Ac.40-5 cents, offered by the petitioner for surrender. If for anyreason, the primary Tribunal comes to theconclusion that the petitioner does not holdtitle for the same, it should not hesitate toexclude such time from the holding itself.The CRP is accordingly allowed, but in thecircumstances of the case, there shall be noorder as to costs.

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