

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.No.498 of 2010

ORDER :

This Civil Revision Petition is filed under Section 91 of the A.P. (Telangana Area) Tenancy and Agriculture Lands Act, 1950 (for short 'the Act') challenging the order dt.27.12.2008 in case No.F2/5078/2007 of the Joint Collector, Ranga Reddy District confirming the order dt.10.01.2006 of the Special Grade Deputy Collector & Revenue Divisional Officer, Ranga Reddy East Division in file No.L/7181/1980.

2. Heard Sri B.Prabhakar Rao, Counsel for the petitioner and Sri G.L.Narasimha Rao and Associates for 4th respondent.

3. The following facts are not in dispute: Certificate under Section 38(E) of the Act was granted to one Anji Reddy and others in respect of lands to an extent of Ac.0-38 gts in sy.No.3, Ac.1.15 gts in sy.No.4, Ac.1.20 gts in sy.No.5, Ac.1.16 gts in sy.No.6, Ac.3.34 gts in sy.No.2, Ac.0.32 gts in sy.No.7, Ac.6.34 gts in sy.No.8, Ac.8.00 gts in sy.No.118, Ac.5.35 gts in sy.No.122 situated at Kappapahad village and Ac.1.03 gts in sy.No.29, Ac.0.12 gts in sy.No.30, Ac.0.04 gts in sy.No.31, Ac.0.31 gts in sy.No.67/7A, Ac.0.31 gts in sy.No.67/7B, Ac.0.31 gts in sy.No.67/7C, Ac.0.33 gts in sy.No.67/7D, Ac.1.00 gts in sy.No.67/7E, Ac.0.01 gts in sy.No.67/7F situated at Khanapur Village vide proceedings dt.31.07.1975 of the Revenue Divisional Officer, RR East Division. This was questioned by the 4th respondent/landholder in an appeal B4/20869/75 before the Joint Collector, RR District. By order dt.30.07.1979, the said appeal was allowed and the matter was remanded to the Revenue Divisional Officer, Ranga Reddy for fresh decision. Thereafter 26 yeas later, the Special Grade Deputy Collector & Revenue Divisional Officer, Ranga Reddy East Division at Malakunta allowed the said appeal on 10.01.2006 in proceedings No.L/7181/1980.

4. The said order was questioned by the petitioners, who claim to be purchasers from the protected tenants i.e., Anji Reddy and others, before the Joint Collector-I, Ranga Reddy District(1st respondent) under Section 90 of the Act. The said appeal was numbered as F2/5078/2007 and was dismissed by the 1st respondent by order dt.27.12.2008.

5. Challenging the same, this revision is filed.

6. Counsel for the petitioners contend that the 2nd respondent, who considered the Case No.L/7181/1980, allowed it at the instance of the 4th respondent without issuing any notice either to the protected tenants or to the petitioners who purchased from the said protected tenants on 28.10.1992. He contended that this point was specifically urged before the 1st respondent in the appeal F2/5078/2007 filed before him, but the 1st respondent did not give any finding thereon. He contended that the order passed by the 2nd respondent as well as the 1st respondent cannot be sustained, since they have been passed in violation of principles of natural justice. He further prayed that both the orders be set aside and the matter be remanded back to the 2nd respondent to decide the case after issuing notices to the petitioners.

7. Counsel for the 4th respondent disputed the contention of the counsel for the petitioners that notices were not served in proceedings before 2nd respondent either on the protected tenants or on the petitioners and orders were passed behind their back.

8. However he is not able to place any material before this Court to prove that notices issued by the 2nd respondent were served on the petitioners or protected tenants in question, before the Case No.L/7181/1980 was decided by 2nd respondent on 10.01.2006.

9. The order dt.10.01.2006 of 2nd respondent in Case No.L/7181/1980 merely records that notices were “issued” to both parties and that the protected tenants did not represent themselves in the case nor they engaged any advocate. The said order does not state that the notices issued by the 2nd respondent to the protected tenants were “served” on them. In any event, since the matter had been pending for 27 years, it is not open to the 2nd respondent to rely on any notices issued in 1979 immediately after the case was remanded and to contend that since the notices were issued, he had complied with the principles of natural justice.

10. Admittedly, the contention that notices not served on the petitioners, who were purchasers from the protected tenants, was specifically raised by the petitioners before the 1st respondent in the appeal F2/5078/2007 filed by them before the 1st respondent. Even the 1st respondent does not record any finding in his order that notices issued by the 2nd respondent had been served on the protected tenants or the petitioners.

11. In this view of the matter, since there is no evidence on record to establish that notices of the hearing of the case No.L/7181/1980 were actually served on the protected tenants or on the petitioners before the said order came to be passed by the 2nd respondent, the order dt.10.01.2006 in proceedings No.L/7181/1980 of the 2nd respondent as well as the order dt.27.12.2008 in case No.F2/5078/2007 of the 1st respondent are liable to be set aside and are accordingly, set aside.

12. The matter is remanded back to the 2nd respondent to consider the claims of the petitioners as well as the 4th respondent herein after issuing notices to the petitioners and also to the protected tenants.

The 2nd respondent is directed to hear the contentions of both sides after complying the principles of natural justice and then decide the matter in accordance with law. Liberty is also given to the petitioners and to the 4th respondent to appear in person before the 2nd respondent on 10.08.2015 with all supporting material and if the petitioners, the protected tenants and 4th respondent so appear, the 2nd respondent is directed to dispose of the matter as expeditiously as possible, preferably within a period of two (02) months thereafter.

13. Accordingly, this Civil Revision Petition is disposed of. There shall be no order as to costs.

14. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

06th July, 2014.
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