

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.4424 of 2014

Date:05.02.2015

Between:

G.Ramesh Babu,
S/o G.V.Krishna Rao

..... Petitioner

And:

Islavath Peeria,
S/o Late Islavath Rathnia
and 6 others.

.....Respondents

Counsel for the petitioner: Sri Challa Gunaranjan

Counsel for the Respondents: ---

The Court made the following:

ORDER:

This Civil Revision Petition is filed under Section-91 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 (for short 'the Act') against order bearing No.F2/6179/2008, dated 26.09.2014, of the Joint Collector-I, Ranga Reddy District.

I have heard Sri Challa Gunaranjan, learned counsel for the petitioner and perused the record.

The respondents filed a petition before the Tahsildar, Maheshwaram Mandal, Ranga Reddy District, under Section 32(1) of the Act for restoration of possession in respect of Acs.16-19 guntas of land in

Survey No.118 of Srinagar Village, Maheshwaram Mandal, Ranga Reddy District. It is their pleaded case that they are the successors in interest of Islavath Rathnia, who was the protected tenant; that the said Rathnia died on 18.08.1994, on account of which, they have succeeded to him to the protected tenancy rights; and that the petitioner, without following due process of law, has forcibly evicted them from the land covered by the protected tenancy.

Before the Tahsildar, the petitioner has filed a counter-affidavit, wherein he has resisted the said petition on various grounds, viz., that the respondents have not filed documentary proof to show that their father was recognised as a protected tenant; that the Special Grade Deputy Collector, Revenue Divisional Officer, Ranga Reddy District, East Division issued memo, dated 12.03.2007, to the effect that on verification of the connected Section 38-E file bearing No.B/432/LFE/75, it is revealed that no certificate under the said provision was granted in respect of Survey No.118, etc; that the khasra pahani for the year 1954-55 and the subsequent pahanies clearly disclose that the original owner was one B.Venkat Reddy, from whom Smt Santhosh Kumari Suri has purchased the land and she, in turn, sold the same to M/s Diamond Chicken Products Private Limited; and that the father of the respondents was never in possession of the said land and they failed to prove as to who dispossessed their father.

The Tahsildar, Maheshwaram Mandal by his order, dated 25.04.2008, dismissed the application filed by the respondents on two grounds, viz., (1) that the respondents could not prove subsistence of the alleged protected tenancy; and (2) that they could not file application under Section-32(1) of the Act within a reasonable time. Feeling aggrieved by the said order, the

respondents have filed an appeal under Section-90 of the Act before the Joint Collector-I, Ranga Reddy District. The Joint Collector by his order impugned in this Civil Revision Petition set aside the order of the Tahsildar and remanded the case to him to conduct a *de novo* enquiry and pass a fresh order after examining thoroughly the case under the provisions of Sections 32 and 38-D of the Act.

A perusal of the order of the Tahsildar shows that he has not referred to the Tenancy Register. He has also not rendered a finding as to any person was recognised as a protected tenant with regard to the land in question. As the Tahsildar is the custodian of the record, he ought to have verified the same and rendered a finding thereon. If no person was recognised as a protected tenant, the further questions would not arise. Conversely, if it is found that there is a protected tenant, then the questions would arise, (1) whether the respondents are the successors in interest of the protected tenant; (2) when the protected tenant was dispossessed and by whom; and (3) whether the respondents at this length of time are entitled to seek restoration of possession, even if all the issues were found in their favour. As the Tahsildar failed to examine these aspects, the Joint Collector has rightly set aside the order passed by the former and remanded the case for fresh disposal.

Therefore, I do not find any reason to interfere with the order of the Joint Collector-I, Ranga Reddy District. However, it is made clear that while holding a *de novo* enquiry, all that the Tahsildar, needs to do is to adjudicate whether the land in question had protected tenant recognised as such, and an entry with regard thereto was found in the Tenancy Register and if there was any protected tenant, whether it was Islavath Rathnia and if so, whether the respondents are his successors in

interest. He also has to decide whether the protected tenant was dispossessed during his life time and whether the application filed by the respondents was within the reasonable time in the light of the judgment of the Supreme Court in ***Ponnal Narsingh Rao Vs. Nallolla Pentaiah and others***^[1], referred in the order of the Tahsildar. The Tahsildar, Maheshwaram Mandal shall pass a final order, after a thorough enquiry on the above aspects, within three months from the date of receipt of a copy of this order.

Subject to the above observations and directions, the Civil Revision Petition is disposed of.

As a sequel to disposal of the Civil Revision Petition, CRPMP.No.6054 of 2014 filed by the petitioner for interim relief is disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*05th February, 2015
DR*

^[1] 1998 (9) SC 183