

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

C.R.P.No.1938 of 2014

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JUDGMENT:

The petitioner herein has claimed to be the tenant of a parcel of an agricultural land, which he was cultivating upon an authorization accorded to him by one Sri Akella Sambasiva Rao. It is the further assertion of the petitioner that he has been faithfully and truthfully remitting the rents to Sri Akella Sambasiva Rao. Sri Akella Sambasiva Rao appears to have raised certain disputes with the petitioner herein and suspecting that the petitioner is likely to be evicted from the agricultural lands, he instituted ATC No.4 of 1989 under Section 15 of the Andhra Pradesh (Andhra Area) Tenancy Act (for short 'the Act'). In that ATC No.4 of 1989, one Sri Akella Rama Sastry filed an implead application and raised a plea that he is the truthful owner of the land in question and that the petitioner herein was not his tenant. Sri Rama Sastry has also denied and disputed any right, title and interest over the land in question in the hands of Sri Akella Sambasiva Rao. The plea of Sri Rama Sastry has been upheld by the Tribunal, which decided ATC No.4 of 1989. The Appeal preferred by the petitioner against the said ATC No.4 of 1989 also failed. In the mean time, Sri Rama Sastry has instituted, in his own individual capacity, O.S.No.80 of 1992 on the file of the Principal Junior Civil Judge's Court, Kakinada, for recovering the amounts due from the petitioner herein for use, occupation and cultivation of the agricultural lands. That suit O.S.No.80 of 1992 was decreed and the plea of the petitioner was denied. A.S.No.209 of 1998 and ATA No.48 of 1998 preferred there against by the petitioner on the file of the III Additional District Judge, Kakinada, also failed. Against the Judgments rendered in ATA No.48 of 1998 and A.S.No.209 of 1998, two separate Revisions, C.R.P.Nos. 2020 and 2021 of 2006 have been preferred by the petitioner herein to this Court. They were decided by a common order passed on 19-08-2011. In the course of the said order, in para 14, the learned Judge observed as under:

“It is an admitted fact that the petitioner did not make out any case against the first respondent that he is the statutory tenant under the first respondent. It is the contention of the second respondent that he leased out the petition schedule land to the petitioner. However, a perusal of the finding of the Tribunal below goes to show that there is no landlord and tenant

relationship between the first respondent and the petitioner and therefore, the Tribunals below came to the correct conclusion in deciding the main issue on hand.”

However, towards the end of the said common order, while dealing with the subsequent development of the respondent herein instituting ATC No.3 of 2010 seeking eviction of the petitioner from the agricultural lands, it was observed as under:

“Therefore, the revision petitioner can take appropriate steps and work out his remedies, if any, in the ATC No.3 of 2010 as a tenant. It is made clear that the revision petitioner is not precluded to raise any pleas available to him in his defence in that ATC No.3 of 2010 and therefore the orders in this revision petition will not in any manner be detrimental to his rights and cause prejudice to his contentions to be raised in the ATC No.3 of 2010.”

Now, ATC No.3 of 2010 has been decided against the petitioner by the Tribunal and the Appeal preferred there against, ATA No.1 of 2013, has also been dismissed by the learned Special Judge, Tenancy Appellate Tribunal (Principal District Judge) Rajahmundry, by Judgment dated 26-03-2014. It is, challenging the said Judgment in ATA No.1 of 2013, which confirmed the findings of fact recorded by the Tribunal in ATC No.3 of 2010, the present Revision is filed.

Heard Sri M. Ram Mohan, learned counsel for the petitioner at length and Sri N. Ashwani Kumar, learned counsel for the respondent.

Sri Ram Mohan would contend that the petitioner was, in fact, a tenant of Sri Akella Sambasiva Rao and Sri Akella Rama Sastry is not the truthful owner and since, the respondent is claiming title only through Sri Rama Sastry, the Tribunal has grossly erred in ordering for the eviction of the petitioner from the agricultural lands in question. He would further contend that the petitioner has, all through, been paying the rents to Sri Sambasiva Rao, who has been accepting the same without any demur or protest and further, Sri Rama Sastry has never appeared on the scene and demanded the petitioner for payment of any such rents.

I am afraid, the contentions canvassed by the petitioner herein are no longer available to him. The findings of fact recorded by the Tribunal, on the previous

occasion, which decided ATC No.4 of 1989, stand in the way of the petitioner raising these pleas. The Tribunal on the previous occasion itself held that it is Sri Rama Sastry, who is the true owner of the agricultural lands in question, but not Sri Sambasiva Rao. This apart, the civil Court, which was approached by Sri Rama Sastry, through an Original Suit for recovery of rents due for the cultivation carried out in the lands in question by the petitioner herein, has decreed the said suit holding that Sri Rama Sastry is the truthful owner and he has not been paid the rents by the petitioner. Above all, the finding recorded by this Court, while deciding C.R.P.Nos.2020 and 2021 of 2006, is that the Tribunal, obviously meaning the Tribunal constituted under the Tenancy Act, came to the correct conclusion in deciding the main issue relating to the right, title and ownership of Sri Rama Sastry as the owner.

In view of this finding of fact by all the three Courts on the previous occasion, it does not create / accord any right to the petitioner, once again, to raise a dispute that it is not Sri Rama Sastry or for that matter, the respondent herein, who is claiming right title and interest in the lands in question being the son of the said Rama Sastry, who has since died, who is the truthful owner of the lands in question. In that view of the matter, the petitioner has all through been denying such a title in the hands of Sri Rama Sastry and he has been contending that the title to the lands in question is with Sri Akella Sambasiva Rao. That fact cannot be re-asserted by the petitioner, in view of the conclusion drawn with regard to the same issue on the previous occasion.

It is one thing, perhaps, that the petitioner may have paid faithfully the rents due to Sri Akella Sambasiva Rao. That is a dead question of fact. It is for him to have sued for recovery of the monies paid by him to Sri Akella Sambasiva Rao or, at least, to makeover the said sums by Sri Sambasiva Rao to Sri Rama Sastry.

I, therefore, do not find any infirmity in the proceedings concluded by the Tribunal and the Court below. For the aforementioned reasons, this writ petition is without any merit and it is accordingly, dismissed at the admission stage, but however, without costs.

Consequently, the miscellaneous petitions, if any, stand dismissed.

NOOTY RAMAMOHANA RAO, J.

Note:

Issue copy in one week.

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30.01.2015.