

HONOURABLE SRI JUSTICE S.RAVI KUMAR

CIVIL REVISION PETITION No.6275 OF 2006

Dated 20th April, 2015

Between:

Paka Sathamma and others.

..Petitioners.

And:

Joint Collector, Warangal and others.

..Respondents.

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ORDER:

This revision is preferred challenging the orders dated 24-6-2006 in Rc.No.E5/1772/2005 of Joint Collector, Warangal whereunder he dismissed appeal preferred by revision petitioners herein which is filed challenging the orders of the Mandal Revenue Officer,Cherial, dated 29-8-1996.

Brief facts leading to this revision are as follows:

According to revision petitioners herein, they are owners and possessors of Ac.4.21 guntas of land in Survey No.914 and Ac.1.10 gunas of land in survey No.905/B of Cherial village, Warrangal District.

According to petitioners, late Polaboina Kondaiah, son of Ramaiah and late Paka Peddulu, Son of Eedaiah are the original protected tenants who got certificate under Section 38-E and they cultivated land till their death and after the death of Paka Peddulu, Paka Nagaiah was only legal heir of Paka Peddulu succeeded and Nagaiah died in the year 1999 and after his death, petitioners being legal representatives succeeded to the tenancy rights and cultivating the said land.

According to revision petitioners, respondents 4 and 5 herein

came to the suit land in the month of June, 2004 and interfered with their possession and enjoyment contending that the suit land was surrendered by late Paka Nagaiah and then they came to know about the proceedings of Mandal Revenue Officer dated 29-8-1996 and therefore, they preferred appeal to the Joint Collector with a delay condonation petition.

Heard both sides.

Advocate for revision petitioners submitted that learned Joint Collector failed to notice that the alleged surrender of late Paka Nagaiah is a 'make believe story' and record disclose that these petitioners succeeded to the tenancy rights and cultivating the land upto, 2004. He further submitted that the Joint Collector ought to have observed that revision petitioners herein have reported the matter to the Mandal Revenue Officer about the interference of R.4 and R.5 herein. He further submitted that the alleged surrender recorded by the Mandal Revenue Officer through proceedings dated 29-8-1996 are not legal and correct. He further submitted that the material on record is not properly considered by the Joint Collector and therefore, order of the Joint Collector is liable to be set aside.

On the other hand, the contesting respondents and learned Government Pleader supported the order of the Joint Collector.

Now the point that would arise for my consideration in this revision is whether the order of the Joint Collector, warangal is legal, correct and proper?

POINT:

As seen from the material, revision petitioners herein preferred appeal to the Joint Collector challenging the proceedings of the Mandal Revenue Officer dated 29-8-1996 with a delay condonation petition and their specific plea is that late Nagaiah never surrendered his tenancy rights and it is only a 'make believe story'.

Learned Joint Collector on the basis of contentions and rival contentions of both parties formulated three points for determination, first point is about locus standi of the revision petitioners and second point is about condonation of delay and third point is about claim of the petitioners with regard to tenancy rights. First two points are answered in favor of the revision petitioners and third point is negated in view of the proceedings of Mandal Revenue Officer dated 29-8-1996.

It is the specific case of the petitioners that Paka Nagaiah has not surrendered his tenancy rights. But, as seen from the material, along with this Nagaiah, two other persons namely Smt. Pallaboina

Lachamma, wife of late Ramaiah, Pallaboina Mallaiah, son of Kondaiah surrendered their tenancy rights.

As seen from the material, a letter in writing was given by these three persons on 2-8-1996 to the Mandal Revenue Officer surrendering tenancy rights, on that, Mandal Revenue Officer, after due enquiry, satisfied with the said surrender which was with free will and unconditional, accepted the said surrender and issued proceedings .

As per Section 90 of A.P.(T.A.)Tenancy and Agricultural Land Act, 1950, the surrender has to be accepted by Tahsildar after satisfying himself that the surrender was in good faith and with free will. So the said Act contemplates surrender of tenancy rights is subject to the satisfaction of Tahsildar. Here, Mandal Revenue Officer after enquiry, satisfied himself as to the free will of the tenants in surrendering the tenancy rights.

As seen from the material, letter in writing was given on Second August, 1996 and surrender was on 29-8-1996, i.e., nearly after 27 days. Admittedly, this P.Nagaiah died in the year 1999 i.e., nearly three years after the issue of surrender proceedings. This appeal was preferred before the Joint Collector in the year 2005. i.e., almost nine years after the issue of surrender proceedings. As per the material and the entries of the revenue records, the disputed land is in possession of one of the respondents after 1996. Though the petitioners contended that they were in possession and enjoyment of the disputed land till June 2004, they have not produced any material. Considering these aspects, particularly, entries in the pahanies which disclose names of the petitioners, the respective columns upto 1996 only, learned Joint Collector dismissed the appeal holding that petitioners have no tenancy rights in the disputed land after surrender. I do not find any illegality in the order of the learned Joint Collector nor any incorrect findings contrary to the material.

As seen from the material, original tenant ie., Paka Nagaiah has surrendered his tenancy rights during his life time all most three years prior to his death and said surrender was accepted by the Tahsildar after satisfying himself as to the correctness of the surrender and now it is not open to the petitioners who are the legal representatives of the said Nagaiah to contend that there was no surrender without producing any material i.e., any evidence either oral and documentary showing continuance of tenancy.

For these reasons, I am of the view that learned Joint Collector has rightly dismissed the appeal and he has not committed any illegality or irregularity in appreciating the material on record and that there are no grounds to interfere with the well considered orders of the Joint

Collector.

Accordingly, this Civil Revision Petition is dismissed, in the circumstances, no costs.

As a sequel to the disposal of this revision, the Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE S.RAVI KUMAR

Dated 20th April, 2015.

Dvs.

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