

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL REVISION PETITION Nos.3591 OF 2011

&

816 OF 2011

Dated 12-6-2015

CIVIL REVISION PETITION No.3591 OF 2011.

Between:

Musunuri Satyanarayana.

..Petitioner.

And:

Dr.Tirumal Indira Devi and others.

..Respondents.

CIVIL REVISION PETITION No.816 OF 2011.

Between:

Musunuri Satyanarayana.

..Petitioner.

And:

Gorijavolu Srinivasa Rao and others.

..Respondents.

-

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL REVISION PETITION Nos.3591 OF 2011

&

816 OF 2011

COMMON ORDER:

CIVIL REVISION PETITION No.3591 OF 2011.

This revision is against orders dated 6-7-2011 in A.T.A.No.8 of 2010 on the file of District Judge-Tenancy appellate authority, Guntur whereunder orders dated 30-11-2009 in A.T.C.No.2 of 2003 on the file of Special Officer, A.P.Tenancy Tribunal-cum-Principal Junior Civil Judge, Ponnur, is reversed.

CIVIL REVISION PETITION No.816 OF 2011.

This revision is preferred against orders dated 20-12-2010 in A.T.A.No.2 of 2010 on the file of Principal District Judge-cum-Tenancy appellate Tribunal, Guntur, whereunder orders dated 30-11-2009 in A.T.C.No.2 of 2003 on the file of Special Officer, A.P.Tenancy Tribunal, Ponnur, is reversed.

Petitioners herein filed A.T.C.No.2 of 2003 before Special Officer, invoking Section 16 (1) of A.P.Tenancy Act to declare that petitioner is entitled to purchase the petition schedule property and to direct the 3rd respondent herein to receive sale price in nine instalments and to declare registered sale deed dated 3-2-2006 executed in favour of respondents 1 and 2 herein as null and void.

Trial court on a consideration of oral and documentary evidence allowed the petition and granted the relief as claimed by the revision petitioner. Aggrieved by the same, respondents 1 and 2 herein preferred A.T.A.No.2 of 2010 and 3rd respondent herein preferred A.T.A.No.8 of 2010 and the learned appellate judge, on a reappraisal of entire material allowed both the appeals by setting aside the orders of Special Officer dated 30-11-2009 in A.T.C.No.2 of 2003. Aggrieved by the orders of the appellate tribunal, these two revisions are filed.

Brief facts leading to these revisions are as follows:

According to revision petitioner, he is cultivating tenant of Ac.13.65 cents of land belonging to Tummala Narasaiah, and after the death of Narasaiah, his son Veeraiah used to manage the land till he died in February, 2002. It is contended that after the death of Veeraiah, disputes arose between revision petitioner herein and sons of Narasaiah and T.Indira Devi wife of Veeraiah. According revision petitioner, he filed A.T.C.No.2 of 2003 for declaration of tenancy rights to the extent of Ac.13.65 cents against legal heirs of Narasaiah and Indira Devi whereas one Suryanarayana brother-in-law of Indira Devi filed A.T.C.No.5 of 2002 against revision petitioner herein for declaration in respect of lease and maktha also filed suit for recovery of maktha (O.S.No.174 of 2002). According to the revision petitioner, these matters ended in compromise and compromise orders are

passed on 29-7-2002 declaring the petitioner as cultivating tenant for an extent of Ac.10-76 cents i.e., land fell to the share of Indira Devi. According to revision petitioner, the said Indira Devi orally offered to sell her land and also lands of Suryanarayana to the revision petitioner and he agreed to purchase Ac.3.50 cents from Suryanarayana and Ac.3-96 cents from Indira Devi at the rate of Rs.1,25,000/- per acre and he accepted to pay entire sale consideration in respect of Ac.3.57 cents and the sale consideration in respect of Ac.3.57 cents in lumpsum and in respect of Ac.3.93 cents of land in annual instalment. According to revision petitioner, he paid the first instalment by way of demand draft and as the landlady committed breach, he filed A.T.C.No.2 of 2003. On the other hand, it is the contention of respondent herein that the petitioner herein has surrendered his tenancy rights as per the compromise and the Special Officer has no right to grant decree and A.T.C.No.2 of 2003 is not maintainable. It is further contended by respondent that after giving up tenancy rights and delivery of possession of land, as the landlady insisted for payment of maktha for the year 2002-2003, the revision petitioner filed the above A.T.C. with false allegations. It is further contended that petitioner has no locus standi to file the petition and seek the reliefs that are sought in the petition.

Revision petitioner in person argued the case and submitted that appellate authority allowed appeals without discussing the merits. He submitted that the appellants in A.T.A.No.2 of 2010 are neither landlords nor tenants and they have no right to invoke the provisions of Section 16 of A.P.Tenancy Act. He submitted that he has a right under Section 15 of the Act to purchase the property and by exercising that right, he prayed for an order from the Special Officer and the Special Officer has rightly granted the relief and that the appellate authority without any reason reversed, well reasoned orders of Special Officer. He further submitted that he filed tenancy petition in the year 2003 and after compromise, his tenancy rights were declared to the extent of Ac.10.76 cents and therefore, there was no surrender of rights and that the findings of the appellate authority on this aspect are not tenable. He submitted that out of Ac.10.76 cents, after division, landlady got Ac.5-37 cents and that he continued as tenant for this piece of land. He further submitted that there is clear evidence to show that he is in cultivation of schedule land i.e., Ac.3.96 cents even after compromise order and the tenancy is subsisting and that he is entitled to purchase the same but the landlady without giving any opportunity to the tenant sold the property to respondents 1 and 2 herein. He further submitted that when the petitioner is a cultivating tenant of Indira Devi, special Officer is competent to exercise jurisdiction to order sale by way of instalments and that the order of the Special Officer is quite legal. Besides oral submission, revision petitioner filed written arguments explaining the

above submissions.

On the other hand, advocate for respondents submitted that the reliefs claimed in the petition filed before Special Officer are not within the purview of the Special Officer and the claim of the petitioner is a civil right to be enforced in a civil court. It is further submitted that the petitioner has surrendered his tenancy rights in April, 2003, and the petitioner has knowledge about the sale of Ac.3.96 cents. He further submitted that as per the provisions of Section 14 of the Tenancy Act, partial surrender is not permissible and on that ground, application filed by the petitioner is not maintainable. He further submitted that Section 15 of the Tenancy Act comes into play when there is no agreement for price between the parties but in this case as the petitioner himself specifically pleaded that agreed price per acre was Rs.1,25,000/-, therefore, Section 15 has no application. He submitted if there is any violation or breach of agreement, he has to approach civil court but not the Special Officer.

He further submitted that when the land was surrendered, there is no relationship of landlord and tenant and this aspect was not at all examined by the Special Officer and the appellate tribunal has examined this aspect and rightly held that there is no jural relationship of landlord and tenant. He further submitted that appellate tribunal framed appropriate points and considered each and every aspect and came to a correct conclusion and that there are no grounds to interfere with the findings of the appellate tribunal. He further submitted that the very same points were urged before appellate tribunal which were rightly rejected and the findings of the appellate tribunal are based on sound principles and that there are no grounds to interfere with the same. He further submitted that Special Officer cannot decide the validity of a sale deed and power is vested with civil court only and there is no error or illegality in the findings of the appellate tribunal to be interfered by this court in exercising the revisional power. He further submitted that both the revisions are devoid of merits and liable to be dismissed.

Now the point that would arise for my consideration in these two revisions is whether the orders of the Special Officer and appellate tribunal are legal, correct and proper?

POINT:

Originally, petition was filed against only one respondent i.e., Dr.Tummala Indira Devi showing her as landlord of the schedule property and subsequently, G.Srinivasarao and Ramarao were impleaded as respondents 2 and 3 to the original petition. As already referred above, the main relief claimed in the petition filed before Special Officer is to declare that the price of schedule land at the rate

of Rs.1,25,000/- per acre is reasonable which is accepted by the landlord and the sale has become effective on payment of first instalment of Rs.49,125/- and that the revision petitioner is entitled to pay balance sale consideration in nine instalments and to declare that the sale deed under document No.139 of 2006 and 140 of 2006 dated 3-2-2006 executed in favour of G.Srinivasarao and U.Ramarao are null and void. Revision petitioner argued at length covering many aspects which are no way relevant in deciding these two revisions. The main aspect that has to be seen in these two revisions is whether the appellate tribunal committed any illegality in reversing the findings of the Special Officer nor there is any jurisdictional error. As seen from the material, appellate tribunal decided A.T.A.No.2 of 2010 first and A.T.A.No.8 of 2010 was decided latter following the findings in the earlier appeal.

The main contention of the revision petitioner is that he paid advance towards sale consideration as first installment and as a tenant, he has a priority right to purchase the property whereas the landlady contended that revision petitioner has surrendered his tenancy rights and he is no more a tenant as on the date of filing of the petition.

To invoke the provisions of Tenancy Act, there must be prima facie proof of jural relationship of tenant and landlord. It is admitted case of revision petitioner that he surrendered part of land and he has not surrendered the entire land whereas contention of the landlady is that he has surrendered his tenancy right in respect of the entire land.

Section 14 of the Tenancy Act deals with surrender and it may be relevant to extract the said provisions which reads as follows:

“(1) A cultivating tenant may terminate his tenancy and surrender his holding at the end of any agricultural year after giving to the landlord and the Special Officer at least three months’ notice expiring with the end of such agricultural year; and the surrender of such holding shall take effect only after it is accepted by the Special Officer on being satisfied, after making such inquiry as he thinks fit, that such surrender is voluntary and genuine:

Provided that where any holding is cultivated jointly by joint tenants or members or a Hindu undivided family, unless the surrender is made by all of them, it shall be ineffective in respect of such joint tenants or members as have not joined in the notice for surrender.

(2) No tenant shall surrender a part of his holding only.”

It is clear from the above provision that no tenant can surrender a part of holding only. So when there is a specific bar under the Act to

surrender part of the land holding, the contention of the revision petitioner that he only surrendered part of holding cannot be accepted. If really, the understanding as contended by revision petitioner is correct, as there is bar under the Act to surrender part of holding, the tenant should get a fresh lease in respect of land that was not surrendered from the date of compromise. Admittedly, no such fresh lease is obtained and the revision petitioner harps on the earlier lease transaction only. As Section 14 of the Act puts an end to the lease transaction and bars partial surrender, the objection of revision petitioner cannot be sustained.

Learned appellate Judge has elaborately discussed the entire evidence on record and gave a specific finding against revision petitioner that revision petitioner herein has surrendered the tenancy in the year 2003 itself. I do not find any illegality in the findings of the appellate court, on the other hand, all the findings of the tribunal are based on material evidence.

On a scrutiny of the entire material, the relief as claimed in A.T.C.No.2 of 2003 is totally beyond the purview of provisions of Section xxx and the Special Officer without properly examining the provisions with reference to the relief claimed passed orders in favour of revision petitioner which were rightly corrected and set aside by the appellate tribunal and that there are no grounds to interfere with the findings of the appellate tribunal.

As already referred above, there is no any illegality nor jurisdictional error in the orders of the appellate tribunal to be interfered by this court by exercising the revisional powers. Revision petitioner cited some rulings in support of his contention. The very same decisions were also cited before appellate authority and they were considered by the appellate tribunal. I do not find any wrong appreciation of facts or law or the decisions relied by the appellate tribunal.

For these reasons, I am of the considered view that both the revisions are devoid of merits and accordingly dismissed. No costs.

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

JUSTICE S.RAVI KUMAR

Dated 12-6-2015.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

CIVIL REVISION PETITION Nos.3591 OF 2011

&

816 OF 2011

Dated 12-6-2015

Dvs