

HONOURABLE SRI JUSTICE S.RAVI KUMAR

CIVIL REVISION PETITION No.5353 OF 2004

Dated 13th April, 2015

Between:

M.Laxmi Narsimha Rao.

..Petitioner.

And:

Joint Collector, Medak District at Sangareddy and others.

..Respondents.

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ORDER:

This revision is preferred against order dated 29-9-2004 in proceedings Case No.F3/5077/93-F3/12/TENENCY/1994 on the file of Joint Collector Medak at Sanga Reddy whereunder order dated 21-10-1992 vide proceedings No.B/1573/90 of Mandal Revenue Officer, Patancheru, are reversed.

Brief facts leading to this revision are as follows:

One Manne Sathaiah and others filed application before Mandal Revenue Officer, Patancheru on 12-7-1990 under Section 32 (1) of A.P.(TA) Tenancy and Agricultural Land Act, 1950, (in short "the Act") contending that they were dispossessed from the schedule land in the year 1990 by the revision petitioner (Pattedar) and that they are entitled for restoration of possession. That petition was allowed on 13-11-1990 and the revision petitioner herein preferred appeal to the Joint Collector who allowed the appeal on 27-11-1990 and remitted back the matter to Mandal Revenue Officer, to verify record and pass orders after giving opportunity to both parties. After remand, Mandal Revenue Officer, passed orders dated 21-10-1992 holding that the respondents 3 to 8 herein failed to establish that Manne Radhayya has not surrendered his tenancy rights in favour of land Holder and on that ground dismissed the application. Joint Collector, Medak Sangareddy through impugned order dated 29-9-2004 allowed the

appeal holding that there is no record to show that Manne Radhayya the original tenant surrendered his tenancy rights in favour of landlord and directed the Mandal Revenue Officer to restore possession to the appellants before him i.e., unofficial respondents herein.

Heard both sides.

The main contention of the revision petitioner is that there is no cogent and valid material in respect of the claim of respondents 3 to 8 herein but the Joint Collector reversed well reasoned findings of the Mandal Revenue Officer.

Advocate for revision petitioner submitted that Joint Collector, Medak Sanga Reddy ought to have seen that the revision petitioner herein also filed declaration under A.P.Land Reforms Act, 1973 showing that this land is his own land which is accepted by the authorities which clearly shows that revision petitioner is pattedar and landlord.

He further submitted that way back in 1975, provisional list was published by the revenue Divisional Officer, Sangareddy, according to which, Manne Radhayya surrendered possession prior to 1954 which falsifies the claim of the legal representatives of original tenant Manne Radhayya. He further submitted that Mandal Revenue Officer, after verification of pahanies, rightly rejected the claim of respondents 3 to 8 herein but the Joint Collector only on presumptions and surmises, reversed such reasoned findings and thereby, committed illegality and the same has to be set aside by exercising the revisional powers.

Now the point that would arise for my consideration in this revision is whether the orders of the courts below are legal, correct and proper?

POINT:

The main grievance of the revision petitioner is that the Joint Collector reversed finding of the Mandal Revenue Officer without any proper material.

As seen from the impugned order, Joint Collector after examining the material on record, held that he is not inclined to agree with the findings of the Mandal Revenue Officer and accordingly set aside. The material examined by him is the first order of the Mandal Revenue Officer dated 13-11-1990. As seen from the said order, Mandal Revenue Officer appears to have recorded statements of surrounding pattadars and land holders namely Pallam Bagaiah, Dodella Papaiah, Manne Bhoomaiah and Mahankali Ramulu, who are having agricultural land adjoining the disputed land. These four persons stated to Mandal Revenue Officer that Manne Radhayya

was cultivating the disputed land which is locally known as Bondam Kunta Kinda and after his death, his sons were cultivating the said land and at the time of sowing season of 1990, the revision petitioner herein forcibly took possession and raised paddy crop. Mandal Revenue Officer also examined B.Balayya and Errola Narasimhulu who stated that revision petitioner herein has been cultivating the disputed land.

After assessing the evidence of these six witnesses with reference to pahanies relating to the disputed land from 1973-1974 to 1989-90 Mandal Revenue Officer, holding that names of the deceased tenants have been recorded as possessors and cultivators and thereby, allowed the claim of legal representatives of the original tenant Manne Radhayya and ordered for restoration of possession from revision petitioner herein. This order was set aside by the Joint Collector and matter was remanded with a direction to decide the case and to verify pahanies issued right from 1950-51. Thereafter, Mandal Revenue Officer after verifying the pahanies from 1950-51 disallowed the claim of legal representatives of Manne Radhayya on the ground that they failed to show that Radhayya has not surrendered the tenancy rights. But as rightly observed by the Joint Collector, it is not for the legal heirs of Manne Radhayya to show that original tenant has not surrendered the possession but it is for the land holder i.e., revision petitioner herein to prove that the original tenant has surrendered his tenancy rights. A clear procedure is contemplated in the Act to record the surrender.

As per the provisions of the Act, if a protected tenant surrenders his rights, that surrender has to be accepted by the competent authority and record such surrender by way of proceedings. But in the entire material, there is no such surrender proceedings. Mandal Revenue Officer is relied on a stray entry in the pahanies for one of the years, accepted the objection of the revision petitioner herein and thrown burden on the legal representatives of the original tenant Manne Radhayya which in my view is absolutely incorrect. Further, Mandal Revenue Officer by referring to orders in File No.61/74 dated 16-10-1974 held that Manne Radhayya has orally left the possession and surrendered his protected tenancy rights in favour of land Holder.

As per the provisions of the Act, there is no procedure of oral surrender and the surrender has to be in writing and that too, such surrender has to be accepted by the competent authority and proceedings have to be issued by duly recording the surrender of the tenancy rights. No such proceedings are available in the record and therefore, the contention of the revision petitioner that the Joint Collector has reversed findings of a well reasoned order of the 'Mandal Revenue Officer cannot be sustained.

On a scrutiny of the material, I am of the view that Joint Collector rightly reversed the findings of the Mandal Revenue Officer and I do not find any illegality in the order of the Joint Collector.

For these reasons, I am of the view that this revision is devoid of merits and liable to be dismissed.

Accordingly, this Civil Revision Petition is dismissed. 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 13th April, 2015.

Dvs.

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