

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL REVISION PETITION No.6918 OF 2005

Dated 1-4-2016

Between:_____

The State represented by the Authorized Officer-
cum-Special Tahsildar, (LR) Guntur and others.

..Petitioners.

And:

Kannaganti Sai Geethasudha @ Ravi Sai Geetha
Sudha and others.

..Respondents.

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ORDER:

This revision is preferred questioning order dated
26-9-2003 in L.R.A.No.5 of 2000 on the file of Land
Reforms Appellate Tribunal, West Godavari, Eluru.

First respondent herein filed application under Rule
16(7) of A.P.Land Reforms Rules claiming that an extent
of Ac.25-03 cents is acquired by her through partition list
dated 30-12-1971 and that the same has to be excluded
from the holding of declarant Kanneganti Chinna Basava
Punnaiah. She contended that on 30-12-1971
in partition of joint family properties, she was allotted 'B'
schedule properties of partition list and since that date,
she has been in peaceful possession and enjoyment of
her share and as she was minor at the time of partition,
her mother looked after her affairs and also income
derived from the property and the Preliminary Tribunal
rejected her plea through order dated 31-7-
2000, aggrieved by which, she preferred appeal before
the Land Reforms Appellate Tribunal, West Godavari,
Eluru and the Appellate Tribunal, on a consideration of
material on record and relying on a Division Bench

decision of this court in A.S.No.1850 of 1993 (CHANUMOLU NIRMALA AND OTHERS V. CHANUMOLU INDIRA DEVI dated 16-4-1994) allowed the appeal and set aside the order dated 31-7-2000 of the Primary Tribunal and held that her claim to the extent of Ac.25.03 cents be excluded from the holding of declarant Kanneganti Chinna Basava Punnaiah. Challenging the said order of the Land Reforms Appellate Tribunal, West Godavari, Government preferred the present revision.

Heard both sides.

Learned Government Pleader submitted that Primary Tribunal rightly negated the claim of first respondent herein and that the Appellate Tribunal without properly examining Rule 16(7) of A.P.Land Reforms Rules accepted the claim of first respondent herein and the same is not legal. It is further submitted that as per decision of this court reported in THETA SIVA VENKATA NAGENDRAMMA v. THOTA SURYA RAO^[1], the crucial date is 1-1-1975 and the shares of minor daughters and minor sons cannot be deducted from the unit of father after amendment Act and therefore, Appellate Tribunal is wrong in accepting the claim of first respondent herein.

On the other hand, advocate for claimants submitted that on 20-4-1981, orders are passed determining surplus land and aggrieved by that order, Government preferred L.R.A.No.81 of 81 and claimant preferred L.R.A.No.84 of 81 and the Appellate Tribunal allowed appeal preferred by Government and dismissed the appeal preferred by claimant against which, claimant preferred C.R.P.Nos.566 of 1985 to 569 of 1985 and this court by order dated 4-8-1987 remitted back both the cases to the Primary Tribunal and when the matter was under consideration, petition under Rule 16(7) of A.P.Land Reforms Rules was filed but without determining the claim of 1st respondent herein that

application was dismissed. It is submitted that daughter was in possession of the property from the date of partition till now. It is submitted that against the dismissal order passed by the Primary Tribunal, the claimant preferred appeals to the Appellate Tribunal and the Appellate Tribunal rightly accepted the claim and that there are no grounds to interfere with the same.

It is further submitted that decision relied on by Government is not applicable in view of the Division Bench Judgment of this Court dated 16-4-1994 which is relied on by the Appellate Tribunal.

It is further submitted that appellate court rightly accepted the claim of only daughter and that there are no grounds to interfere with the order of the Appellate Tribunal.

The short point involved in this revision is whether the claim of first respondent as minor daughter of the declarant can be accepted or not?

POINT:

There is no dispute as per Rule 16(7) of A.P.Land Reforms Rules, any person other than a party is permitted to file petition claiming right in the property at any stage either before Primary Tribunal or Appellate Tribunal.

First respondent herein made a claim in the property on the basis of a partition list between the declarant and herself being daughter of the declarant.

From the record, it is clear that the first respondent is in enjoyment of the property from the date of partition list dated 30-12-1971. First respondent has produced land revenue receipts showing payment of land revenue in her name by her mother from 1972 onwards upto 1999. These receipts are supported by the evidence of V.A.O. and the report of M.R.O. and considering that part of material evidence, the Appellate Tribunal reversed the order of Primary Tribunal and accepted the claim of first respondent herein.

Here, the only point urged on behalf of Government is that as per the decision of this court in *THETA SIVA VENKATA NAGENDRAMMA v. THOTA SURYA RAO* (first cited), shares of minor daughters and minor sons cannot be deducted from the unit of father after the amendment Act, and the crucial date is 1-1-1975. Here the partition list is prior to this 1.1.1975 as it is dated 30-12-1971. Though it was contended that this document was subsequently brought into existence that was not accepted, considering the date of purchase of stamp. Appellate Tribunal by relying on judgment of this court in A.S.No.1850 of 1993 dated 16-4-1994. In that case, a Division Bench of this Court clearly held that the lands fallen to the share of divided minors in the family partition and lands in possession of tenant are liable to be excluded from holding.

Here in this case, from the partition list, it is established that Ac.25.03 cents was fallen to share of only daughter i.e., first respondent herein and she has been in possession and enjoyment of the same and therefore, as per Division Bench decision that land has to be excluded and the Appellate Tribunal by applying that judgment rightly accepted the claim of first respondent herein. As rightly pointed out by advocate for claimants, Appellate Tribunal rightly applied the Division Bench decision to the facts of the case and that the objection of the Government is not tenable. The decision relied on by Government has no application to the facts of the case, particularly, in view of the Division Bench decision referred to above.

The revisional powers under the Act are very limited and they can be exercised only if the Appellate Tribunal is not vested with jurisdiction or failed to exercise jurisdiction vested or acted in exercise of jurisdiction illegally or if there is any material irregularity. Only in such cases, the revision court can interfere with the order of the Appellate

Tribunal. In the entire grounds of appeal, no where it is contended that the Appellate Tribunal is not vested with the jurisdiction nor that it failed to exercise jurisdiction nor it acted in exercise of jurisdiction illegally, or it committed any material irregularity. The entire arguments and the grounds are with regard to the merits of the case which the revision petitioner cannot avail by invoking powers of this court under Section 21 of A.P.Land Reforms (Ceiling on Agricultural Holdings) Act,1973.

On a scrutiny of material, I am of the view that the Appellate Tribunal has not committed any error in accepting the claim of first respondent herein under Rule 16(7) of A.P.Land Reforms Rules and that there is no error either jurisdictional or material irregularity in the order of the Appellate Tribunal to be interfered by this court by exercising revisional jurisdiction.

Accordingly, the revision 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 1-4-2016.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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Dvs

[\[1\]](#) 1990 (3) ALT 569 (S.B.)