

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

Civil Revision Petition No.3199 of 2007

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Date: 05.02.2016

Between:

Vegisina Seetha

.. Petitioner

and

Nedunuri Venkata Subba Rao

.. Respondent

**Counsel for the petitioner : Ms.Sindhura VNL
 for Mr.VLNGK.Murthy**

Counsel for the respondent: None appeared

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The Court made the following:

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O r d e r :

This Civil Revision Petition arises out of the
concurrent findings of fact regarding default of the

petitioner in paying the admitted rent to the respondent in respect of the agricultural land admeasuring Acs.2-00 cents and ordering her eviction.

I have heard Ms.Sindhura, learned Counsel for the petitioner, and perused the record. In spite of service of notice on the respondent, no one entered appearance on his behalf.

The facts in brief are that during the lifetime of the respondent's father, a total extent of Acs.16-00 cents of agricultural land was given on lease to the petitioner's father and various other tenants. The petitioner's father was given an extent of Acs.2-00 cents out of the said Acs.16-00 cents of land for lease. After the demise of their respective fathers, the respondent succeeded as the landlord and the petitioner succeeded as the tenant. The respondent has filed ATC.No.82 of 1992 for eviction of the petitioner before the Special Officer-cum-Principal Junior Civil Judge, Amalapuram, under the provisions of the Andhra Pradesh (Andhra Area) Tenancy Act, 1956, on the ground that she has committed default in payment of rents for the years

1987-88, 1988-89, 1989-90 and 1990-91.

It is the pleaded case of the respondent that in pursuance of the oral lease agreement, the petitioner agreed to pay rent @ 12 bags of paddy per acre per year and that despite demand, she failed to pay the rents for the above-mentioned years.

The petitioner has pleaded that the agreed rent was 10 bags of paddy per acre per year; that as the respondent has refused to collect the paddy in spite of several notices, she has sold the paddy in the market and deposited the sale proceeds in the bank account.

On behalf of the respondent, he has examined PWs.1 to 4 and marked Ex.A.1 before the Primary Tribunal and marked Exs.A.2 to A.4 before the Appellate Tribunal. On behalf of the petitioner, he has examined RWs.1 and 2 and marked Exs.B.1 to B.29 before the Primary Tribunal.

Based on the oral and documentary evidence, the Primary Tribunal held that the rent

was payable in kind; that there is a practice of delivery of paddy at the residence of the landlord; that as per the oral agreement between the parties, the petitioner had to deliver the paddy at the residence of the respondent and that as she has failed to do so, she has committed default in payment of rents for the above-mentioned years. The Tribunal has, accordingly, ordered eviction of the petitioner. Feeling aggrieved by the said order, the petitioner has filed ATA No.109 of 2002. After re-appreciation of the evidence on record, the lower Appellate Tribunal has dismissed the appeal by its Judgment, dated 30-04-2007.

The learned Counsel for the petitioner has strenuously argued that despite issuing several notices, which were marked as exhibits before the Tribunals, the respondent failed to receive the paddy and that having no other option, she has sold the paddy and deposited the sale proceeds in the bank account. The lower appellate Court, in its Judgment, while agreeing with the plea of the petitioner that the agreed rent was 10 bags per acre per annum, however, placed reliance on Exs.A.2 to A.4- notices, which pertain to a piece of land

forming part of Acs.16-00 cents of land, which was originally leased out by the father of the respondent to various tenants, whereunder one of the tenants therein has informed the daughter of the original landlord (sister of the respondent) that the paddy is being brought to her premises for delivery, and arrived at the conclusion that the said documents prove the existence of the practice of delivery of paddy at the residence of the landlord.

This is a case where the agreement is oral. As rightly observed by the lower Appellate Tribunal, in ordinary course of things, an obligation lies on the tenant to pay the rent, which necessarily means that he shall deliver the rent either in cash or in kind at the premises of the landlord. However, this general practice can be deviated by the agreement between the parties. Though the petitioner pleaded that the respondent was under obligation to collect the rent from her and that she is not under obligation to deliver it at the former's premises, she has failed to produce acceptable evidence in support of this plea. In the absence of any understanding in writing contrary to the general practice of the tenant delivering the rent at the

premises of the landlord. the burden heavily lay on the petitioner to prove that she is not under obligation to deliver the paddy at the residence of the landlord. As rightly held by both the Tribunals below, the petitioner has failed to discharge this burden. Both the Tribunals have also rightly observed that the deposit of cash in the bank account instead of delivering the paddy in kind is not in conformity with the agreement between the parties and that therefore, such an act cannot save the petitioner from being termed as a defaulter. As admittedly, the petitioner failed to deliver paddy to the respondent for the years 1987 to 1991, both the Tribunals below have rightly concluded that she was the defaulter and has, accordingly, ordered her eviction. Hence, I do not find any justifiable ground to interfere with the well considered orders of the Tribunals below.

The Civil Revision Petition is, accordingly, dismissed.

As a sequel to dismissal of the Civil Revision Petition, interim order, dated 22-10-2007, is vacated and CRPMP.No.4156 of 2007 is disposed

of as infructuous.

(C.V.Nagarjuna Reddy, J)

Dt: 5th February, 2016
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