

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 12278 of 2007

Order:

The petitioners state that the husband of the first petitioner late Bandi Bhumanna was the owner and possessor of the land admeasuring Ac.5-00 situated in Survey No.13/A of Marlapalli Village, Boath Mandal, Adilabad District. After the death of her husband, the first petitioner succeeded to the property. Her only son died leaving the second petitioner as his widow. Thus, the petitioners herein are the mother-in-law and daughter-in-law.

2. It is the case of the petitioners that the husband of the first petitioner, who was a non-tribal, purchased the said land of an extent of Ac.5.00 on 29.04.1965 through an ordinary sale deed from one Peeraji, who was also a non-tribal. The AP Scheduled Area Land Transfer Regulation came into force with effect from 01.12.1963, wherein the transfer of land from tribal to non-tribal was prohibited, but there is no restriction insofar as transfer of land from non-tribal to non-tribal. The said Regulation was amended with effect from 03.02.1970 prohibiting transfer of land from non-tribal to non-tribal also.

3. While so, the third respondent initiated *suo motu* proceedings and passed an order on 22.12.1984 ordering the eviction of the husband of the first petitioner on the ground that the document was registered subsequent to 1970 i.e., on 18.04.1977. Challenging the said order dated 22.12.1984, the husband of the first petitioner preferred an appeal to the second respondent and the appellate authority confirmed the order passed by the third respondent, by an order dated 26.06.1985. The husband of the first petitioner preferred a revision to the first respondent and the first respondent confirmed the order passed by the appellate authority by an order dated 20.02.1991.

Challenging the said order, the petitioners herein filed WP No.35005 of 1998 and this Court noticed that the order in revision was passed without reasons and, accordingly, set aside the order of the first respondent dated 20.02.1991 and remanded the case to the first respondent for fresh consideration in accordance with law. After remanding, the first respondent passed an order on 17.05.2007 after issuing notice to the petitioners herein. Neither the petitioners nor their counsel appeared pursuant to the notice issued to them. Therefore, the first respondent passed the order in GO Ms. No.32, Social Welfare (LTR-2) Department, dated 17.05.2007, confirming the orders passed by the original authority as well as the appellate authority. Challenging the said Government Order, the present Writ Petition was filed.

4. Learned counsel for the petitioners submits that the petitioners purchased the property prior to the coming into force of the AP Scheduled Area Land Transfer Regulation and the said fact was not taken into consideration by the authorities.

5. A perusal of the order passed by the original authority makes it clear that the husband of the first petitioner who appeared personally before him on 20.10.1984 gave a statement stating that he purchased Ac.5.00 of land in the year 1977 and the sale deed was registered on 18.04.1977. Now this is a statement made by a deceased person when he was alive. In the appeal it was contended that the original authority has not given sufficient opportunity to produce the oral and documentary evidence before passing the order. But, the said contention was negated by the appellate authority stating that the original authority has recorded the statement of the appellant giving due opportunity. Hence, there was no force in the contention. It was also recorded that the appellant himself admitted that the registration took place in the year 1977, but the transaction took place in the year 1965. The appellate authority also noticed that the appellant produced

pahani patrikas showing the occupation of the appellant from 1966 onwards. It was also recorded that the appellant did not produce the agreement of sale which was stated to have taken place in the year 1965. Since the appellant failed to produce the agreement of sale prior to 1977 the appeal was dismissed. The first respondent dismissed the revision petition by holding as follows.

“Government after perusal of the documentary evidences on record, found that the petitioner himself admitted before the Agent to Government, Adilabad that the registration took place in the year 1977 i.e., after the Regulation 1/1970 came into force but he failed to produce copies of either of the agreement of sale or a registered sale deed which was reported to have taken place in the year 1977. He produced pahani patraks showing his occupation from 1966 onwards. In the absence of any documentary evidence to show that the appellant had purchased the land prior to Amendment Regulation 1 of 1970 came into force, it cannot be held that the appellant had not contravened the provisions of sub-section (1) of Section (3) of APSALTR 1959 read with Regulation 1/1970.”

6. In view of the concurrent findings recorded by the original authority, appellate authority and the revisional authority on the basis of the statement made by the husband of the first petitioner, this Court sees no grounds to interfere with the order of the first respondent.

7. The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

8. As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.
Date: 11.03.2016
Nsr

RAMALINGESWARA RAO, J.