

-

Date:01.06.2016

Between:

Teegala Ram Reddy (died) and others.

... Petitioners.

AND

The Joint Collector-1, Ranga
Reddy Division at Lakidikapool,
Hyderabad and others.

...Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRP No.1267 of 2008

-

ORDER:

-

This revision is preferred questioning order dated 31-12-2007 in Case No.F2/5320/2006 on the file of Joint Collector, Ranga Reddy District.

2. Brief facts relevant for the purpose of this revision are as follows:-

Late Dr.Abbas Hussain (third respondent herein) during his life time declared that Acs.33-30 guntas in Survey Nos.89 & 90 of Badangpet, Saroornagar Mandal as excess and surrendered the said land, which was accepted by the Tribunal constituted under A.P land Reforms (Ceiling on Agricultural Holdings) Act, 1973, through proceedings dated 07-11-1981. The said Abbas Hussain in his declaration disclosed that the revision petitioner herein is a protected tenant. As the Primary Tribunal accepted the surrender, without notice to the revision petitioner, he preferred appeal to the Land Reforms Appellate Tribunal, and State also preferred appeal which were numbered as L.R.Nos.2 & 3/1984 and the Appellate Tribunal disposed of these two appeals by a common order dated 05-12-1985 recording that the surrender made by Dr. Abbas Hussain would be subject to rights of

the revision petitioner. Thereafter, the revision petitioner herein along with 9th respondent herein applied for grant of certificate under Section 38-E in respect of Acs.33-30 guntas of land in Survey Nos.89 & 90 of Badangpet Village, Saroornagar Mandal to the Revenue Divisional Officer, East Division, Ranga Reddy. When the Government was taking steps for grant of pattas to weaker sections in respect of the same land, the revision petitioner herein and 9th respondent filed W.P.No.15642/1991 before this Court and this Court disposed of the said writ petition with the following order:-

“Heard the learned Government Pleader. As the petitioners claim that they were heritable right to continue in possession of the land under the provision of the above referred act as protected tenants and sought for issuance of a certificate under Section.38-E of the Act, pending that petition, the R.D.O., Hyderabad East, Ranga Reddy District, shall not assign the lands in question these Survey Nos.89 & 90 of Badangpet Village, Saroornagar Mandal to any third party. However, it is open to the R.D.O., to process as per law after disposal of the said petition. The writ petition is accordingly disposed of. No costs. Advocate’s fee Rs.200/-.”

3. Proposed beneficiaries filed writ appeal challenging the above referred order of the learned Single Judge in W.A.No.183/1992 and Division Bench of this Court vide order dated 16-03-1992 dismissed the appeal and passed the following order:-

“As matters stood thus, the landlord sought to surrender the land of which the writ petitioners are protected tenants. This surrender was sought to be effected under the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act 1 of 1973. The Government appears to have accepted the surrender in November, 1981. Against this action, the writ petitioners preferred statutory appeals to the Land Reforms Appellate Tribunal. While disposing of the appeals, it was held by the appellate Tribunal by its order of December, 1985 that the landlord’s surrender and its acceptance shall be subject to the writ petitioner’s tenancy rights. There was thus more than sufficient cogent material to indicate the protected tenancy rights of the writ petitioners. Judicial orders passed by the Tribunals also further indicate recognition of that right. The surrender sought to be effected by the landlord was also directed to be expressly subject to the tenancy rights of the writ petitioners.

The appellants herein claim to be beneficiaries after the landlord’s surrender and its acceptance by the Government and certain further development consequent thereupon. In the face of the writ petitioner’s protected tenancy rights, from which would follow ownership rights, we find it extremely difficult to see as to what right, title and interest could the appellants have qua the lands in question. The learned Single Judge has in the impugned order further observed that the writ petitioners had also filed an application before the Revenue Divisional Officer, who is the competent authority, for grant of Ownership Certificate under Section 38-E of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act, 1950 and the said application is also pending. It has been further observed in the impugned order that despite the same, the Revenue Divisional Officer has been making attempts to grant pattas in respect of

these very lands to third parties, apparently the appellants herein.

In the face of the protected tenancy rights of the writ petitioners and the fact of the orders passed by the Appellate Tribunal in the statutory appeals in question, the further in the face of the application filed for granting ownership certificate under Section 38-E of the aforesaid Act, we see no justification for interfering with the impugned order of the learned Single Judge. This is an order which best serves the interests of justice and prevents any third-party's right, title and interest intervening in the matter at this stage. As the proceedings are pending before the Revenue Divisional Officer pursuant to the applications filed by the writ petitioners claiming protected tenancy certificate, we refrain from making any further observations."

4. Thereafter, the second respondent-R.D.O., herein dismissed the application filed by the revision petitioners for grant of certificate under Section 38-E. Questioning the said order, the revision petitioners filed appeal before the Joint Collector, Ranga Reddy, which was also dismissed on 14-02-1994. Questioning these two orders, revision petitioners herein filed CRP No.1476/1994 and this Court through order dated 13-03-2000 allowed the revision by setting aside the order of the Joint Collector, Ranga Reddy dated 14-02-1994 and remitted the matter to Joint Collector, Ranga Reddy for fresh disposal. Thereafter, the first respondent herein passed order dated 30-07-2001 confirming order of the Revenue Divisional Officer and dismissed the appeal. Revision petitioner then filed CRP No.4880/2001 questioning the order dated 30-07-2001 and this Court through order dated 08-12-2003 allowed the revision by setting aside the orders passed by the Primary Tribunal dated 17-04-1993 and the Appellate Tribunal dated 30-07-2001 and remanded the matter to the Primary Tribunal for fresh consideration on merits. On such remand, Revenue Divisional Officer, East Division conducted fresh enquiry and passed order dated 07-10-2005 holding that revision petitioner is entitled to ownership certificate under Section 38-E only for an extent of Acs.20-05 guntas in Sy.Nos.89 & 90 of Badangpet Village, Saroornagar Mandal. Aggrieved by the order of the Revenue Divisional Officer dated 07-10-2005, legal heirs of Dr. Abbas Hussain filed appeal before the Joint Collector, Ranga Reddy in Appeal Case No.F2/5320/2006. The Joint Collector Ranga Reddy held that the legal heirs of Dr. Abbas Hussain have no *locus standi* to file the appeal and that they cannot maintain any appeal in respect of order dated 07-10-2005 of Revenue Divisional Officer, Ranga Reddy, but allowed the appeal on the ground that once the surrender is accepted under Section 10 of A.P. Land Reforms (Ceiling on Agricultural

Holdings) Act, 1973, it is deemed that the Tribunal exercised the duty enjoined under Section 13 of the Act and the acceptance becomes operational and the land vests with the Government free from all encumbrances. It is further held any claim or liability can be enforceable against the surrendered land only in respect of amount payable and recorded a finding that the R.D.O., has no jurisdiction to issue ownership certificate. Now questioning the said order, present revision is preferred.

5. Heard both sides.

6. The first and foremost submission of the learned Senior Counsel Sri D. Prakash Reddy is that the Joint Collector, Ranga Reddy, having recorded a finding that the appellants therein i.e, respondents 4 to 8 herein have no *locus standi*, ought to have dismissed the appeal, but instead he decided the appeal on merits thereby, he exceeded his jurisdiction in deciding the appeal on merits. He further submitted that Joint Collector, Ranga Reddy erred in coming to the conclusion that once the lands are surrendered, they vest with the State under the land reforms proceedings and no adverse claim can be maintained.

He submitted that the Land Reforms Appellate Tribunal in its order observed that the surrender is only subject to the rights of the revision petitioner herein under the Tenancy Act and these findings of the Land Reforms Appellate Tribunal were upheld by this Court both in W.P.No.15642/1997 & W.A.No.183/1992. He submitted that ignoring all these orders, Joint Collector Ranga Reddy passed the impugned order by exercising *suo-motu* powers, which are not vested in him, under the provisions of A.P (Telangana Area) Tenancy & Agricultural Lands Act, 1950. Learned Senior Counsel further submitted that the Land Reforms Appellate Tribunal made it clear that the acceptance of surrender by the Tribunal is only subject to the rights of the petitioner herein and that it is not open to the Joint Collector, Ranga Reddy to record a finding that the R.D.O., is not vested with the jurisdiction to decide the ownership. He further submitted that the findings of the Joint Collector, Ranga Reddy are contrary to the orders of the Land Reforms Appellate Tribunal and also orders of this Court, therefore, the impugned order is liable to be set aside.

7. Learned Government Pleader for Arbitration representing the State submitted that Joint Collector, Ranga Reddy ought to have given an opportunity to the revision petitioner herein before passing the impugned order while by exercising *suo-motu* powers and for that reason, he

prayed to remit back the matter to Joint Collector, Ranga Reddy for fresh consideration. This proposal was vehemently opposed by the learned Senior Counsel on the ground that the revision petitioner has already suffered, on account of the impugned orders passed by the Government Officials and this is the third time, he approached this Court by filing revision and there is nothing to be decided afresh for the Joint Collector, Ranga Reddy and therefore, there is no need to remit back the case to the first respondent herein.

8. Respondents 4 to 8 herein, against whose appeal, the Joint Collector, Ranga Reddy passed the impugned order, filed affidavit stating that as they already surrendered the subject land, they are no longer interested in the matter. Learned Advocate appearing for 9th respondent submitted that R9 also filed affidavit stating that he has no further interested in the subject lands and that the matter is between the revision petitioner and the Government.

9. Now the point that would arise for my consideration in this revision is whether order dated 31-12-2007 of the first respondent-Joint Collector is legal, proper and correct?

10. **Point:-** As referred to above, the Land Reforms Appellate Tribunal accepted the surrender subject to the rights of the revision petitioner. So it is a conditional acceptance. The revision petitioner herein approached R.D.O., Ranga Reddy for issue of ownership certificate and the R.D.O., after thorough enquiry, held that the father of revision petitioner by name; T. Balaiah was recorded as protected tenant in final Tenancy Register in respect of Acs.30-30 guntas in Survey Nos.89 & 90 of Badangpet Village, Saroornagar Mandal. As seen from the record, name of Teegala Bal Reddy was recorded as protected tenant in respect of Survey Nos.87, 88, 89, 90, 95, 96, 97, 98 & 99 for an extent of Acs.71-07 guntas of land of Badangpet Village. While examining claim of revision petitioner whether he is entitled for the ownership certificate, R.D.O., mainly relied on final tenancy record of Badangpet Village, wherein the name of T. Bal Reddy was registered as protected tenant. He also considered the aspect that the original owner in his declaration clearly indicated that Teegala Bal Reddy was protected tenant of these lands. R.D.O., also observed though revision petitioner and another are entitled for ownership certificate for more extent they claimed only for Acs.20-05 guntas in Survey Nos.89 & 90 of Badangpet Village, and issued certificate to that extent only. Joint Collector, Ranga Reddy mainly

focused on the provisions of A.P. Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 and held that once the surrender is accepted, R.D.O., has no jurisdiction under the Tenancy Act to issue ownership certificate under Section 38-E. As rightly pointed out by learned Senior Counsel, Joint Collector, Ranga Reddy has lost sight of the fact, that the surrender was accepted subject to the rights of the revision petitioner herein. When the surrender is a conditional surrender, R.D.O., has got jurisdiction particularly in view of orders of this Court in CRP No.4880/2001 to examine the claim of revision petitioner. Though Joint Collector, Ranga Reddy referred to these orders, but viewed the matter on different lines ignoring orders of the Land Reforms Appellate Tribunal, orders of this Court in two revisions and orders of this Court in Writ Petition & Writ Appeal. When admittedly Government has not preferred any appeal questioning the issue of ownership certificate under Section 38-E, it is not open to the Joint Collector to go into the merits of the case, particularly when he recorded a finding that the parties, who preferred the appeal, have no *locus standi*. Learned Joint Collector has lost sight to the fact that the Government is a party to both the appeals before the Land Reforms Appellate Tribunal, which recorded a finding that surrender is subject to the rights of the revision petitioner herein and that order has become final and binding on the State.

11. In **GADE SURESH vs. GOVERNMENT OF ANDHRA PRADESH**^[1], this Court held as under:-

“Under Section 13 of the Land Reforms (Ceiling on Agricultural Holdings) Act, 1973, hereinafter called as the Ceiling Act, the Tribunal has to decide in the first instance whether the land held by a protected tenant stands transferred to the protected tenant under Section 38-E of the Tenancy Act and if so, the extent of the land which so stands transferred to the protected tenant, and such extent of land has to be excluded from the holding of the owner and included in the holding of such tenants as if the tenant was the owner and included in the holding of such tenants as if the tenant was the owner of such land. Sub-Section (2) of Section 13 of the Ceiling Act provides that the relevant provisions of the Tenancy Act have to be applied in the matter of purchase of the land by a protected tenant. Under Section 13, the Tribunal has to determine the land held by a protected tenant and the extent of the land which stands transferred to the protected tenant and thereafter exclude the same from the holding of the owner. In order to determine the same, the Tribunal has to apply the provisions of Section 38-E. Under Section 38-E of the Act, the Government may, by notification in the Andhra Pradesh Gazette declare in respect of any area and from such date as may be

specified therein that the ownership of all lands held by protected tenants, which they are entitled to purchase from their landholders in such area under any provisions of Chapter IV of the Tenancy Act shall, subject to the conditions laid down in sub-section (7) of section 38 stand transferred to and vest in the protected tenants holding them and from such date the protected tenants shall be deemed to be the full owners of such lands. Under Section 38-E, therefore, there is a statutory transfer of ownership rights to the protected tenants in the lands held by them as protected tenants. But this is subject to the provisions of sub-Section (7) of section 38 of that Act, which lays down the conditions subject to which a protected tenant can purchase lands from the landholder. The protected tenant will only acquire ownership rights in the lands held by him as a protected tenant to the extent mentioned in Section 38, sub-section (7). The Tribunal has, therefore, to determine the extent of the land in respect of which the ownership rights stand transferred to the protected tenants under Section 38 (7) read with Section 38-E.”

12. Here in our case, the Land Reforms Appellate Tribunal in LRA Nos.2 & 3/1984 clearly recorded a finding that the surrender is subject to the rights of the revision petitioner herein. So even before accepting surrender, it is incumbent on the tribunal under Land Ceiling Act to decide the rights of a tenant. So Land Reforms Appellate Tribunal accepted the surrender subject to the rights of revision petitioner, which are to be decided. In this case, R.D.O., after due enquiry and after considering the entries in the records, accepted the rights of revision petitioner issued certificate in respect of Acs.20-05 guntas of land. There is nothing wrong in the order of the R.D.O., nor there is any jurisdictional error, but the Joint Collector, under erroneous impression, passed the impugned order by setting aside a well considered order of the R.D.O. On a consideration of the material on record, I am of the view that the Joint Collector exceeded his jurisdiction and passed the impugned order particularly when there was no appeal from the Government questioning the issue of ownership certificate under Section 38-E, so also questioning the orders of the Land Reforms Appellate Tribunal accepting the surrender subject to the rights of the revision petitioner. As rightly pointed out by Advocate for revision petitioner there is nothing to be enquired further, therefore request of Government Pleader for remand cannot be accepted.

13. For these reasons, I am of the view that the order of the Joint Collector, Ranga Reddy dated 31-12-2007 is liable to be set aside upholding the order of the Revenue Divisional Officer, East Division,

Ranga Reddy, dated 07-10-2005.

14. Revision is accordingly allowed and the order of the Joint Collector, Ranga Reddy dated 31-12-2007 is set aside upholding the order of the Revenue Divisional Officer, East Division, Ranga Reddy, dated 07-10-2005. No costs.

JUSTICE S. RAVI KUMAR

Date:01.06.2016

mr**b**

[\[1\]](#) 1977 (1) APLJ 112