

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No.1934 OF 2006

Dated:21.12.2017

Between:

Oblisetty Pushpavathi,
W/o. Late Gopala Anjaneyulu,
Aged 65 years, R/o.Khandavalli,
West Godavari District

.. Petitioner

And

Pappopula Sri Ramachandra Murthy (Died),
S/o. Balaramaiah, Hindu, Aged about
45 years, Cultivation, Annavarappadu,
West Godavari District and others

.. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No.1934 OF 2006

ORDER:

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The parties herein are referred to as arrayed before the Special Officer (Tenancy)-cum-I Additional Junior Civil Judge, Tanuku. The respondent in the revision petition died during the pendency of the revision and therefore his legal heirs are brought on record.

Petitioner - landlady owns land to an extent of Ac.0.60 cents in Survey No.94/4 of Malleswaram Village. In the year 1974, oral agreement of lease was entered with the respondent to lease the said land to an agreed rent of 8½ bags of paddy to be paid annually. Praying to grant fair rent on the said lease, the landlady filed A.T.C.No.104 of 1999 on the file of the Special Officer (Tenancy) - cum - I Additional Junior Civil Judge, Tanuku. Adjacent to the said land, son of the petitioner, who is now impleaded as the 2nd petitioner, owns land to an extent of Ac.0.53 cents. He also entered similar lease agreement subject to payment of 7½ bags of paddy per annum. He also filed A.T.C.No.105 of 1999 seeking enhancement of rent. The A.T.C. filed by the landlady was allotted to the Court of the I Additional Junior Civil Judge at Tanuku. The same was dismissed by order dated 14.08.2002. Whereas A.T.C. filed by her son was partly allowed, fixing rent as 7½ bags of paddy for the first crop and 3½ bags of paddy for the second crop, in all 11 bags. It is not disputed that the tenant of both the parties is the same and both lands are adjacent to each

other. Aggrieved by the order in A.T.C.No.104 of 1999, landlady filed A.T.A.No.31 of 2003. The tenant of her son filed A.T.A.No.40 of 2003 aggrieved by the order in A.T.C.No.105 of 1999. Both the A.T.As. were considered by the District Judge, Eluru, and were dismissed. In other words, the Principal District Judge affirmed the fair rent fixed in favour of the son of the landlady', whereas the claim of the landlady for fair rent was rejected. Aggrieved by the order in A.T.A.No.31 of 2003, landlady preferred the present revision.

3. Learned counsel for the petitioner contends that the lands of petitioner and her son are adjacent to each other and belonging to the same family. Both the extents of lands are having similar irrigation facilities and yielding capacity and therefore there is no justification in granting enhancement of rent in favour of son to an extent of Ac.0.53 cents of land and denying enhancement in favour of the landlady, more so, when the extent of land of petitioner is more compared to her son. According to learned counsel, petitioner is now getting less rent than her son, even though the extent of land owned by landlady is more. He further submits that by drawing the attention of this Court to the findings arrived at by the appellate Court in A.T.A.No.40 of 2003 and the reasons assigned by the learned Judge in A.T.A.No.31 of 2003 that the claim of son of landlady was accepted holding that the lands in Malleswaram Village are fertile lands and same can be taken judicial note, while taking the evidence placed before the Court and justified the enhancement granted by the Special Officer.

4. When it comes to the claim of the landlady for enhancement of rent, the very same appellate Court, while accepting the claim for enhancement, held that the landlady failed to establish the grounds for fixation of fair rent.

5. Learned counsel for the respondents does not dispute the basic facts noted above that the tenant of the petitioner and her son is same; the extent of land of the son of landlady is less than the extent of the land of landlady and both are adjacent lands. He also does not deny the fact that the lands in Malleswaram Village are fertile lands. However, he submits that the decision of the first appellate Court is based on the evidence available on record.

6. In view of the admitted facts, the only issue for consideration is, whether the Special Officer as well as the first appellate Court erred in not accepting the prayer of the landlady for enhancement of fair rent.

7. Two extents of the land belong to the same family; the said lands are adjacent lands and the material on record would clearly show that the lands in Malleswaram Village are fertile lands. Furthermore, even according to the evidence brought on record on behalf of the respondents, the yielding capacity of the adjacent lands is also good. Therefore, I see no justification to deny fixation of higher rent to landlady, more so when her extent of land is larger than the extent of land of her son.

8. Having regard to these findings, I am of the opinion that the Special Officer as well as the appellate Court erred in not granting fair rent as prayed by the petitioner. In the facts of this case, I am

of the opinion that the landlady, petitioner herein, is entitled to fair rent at 12 bags of paddy per annum.

9. The Civil Revision Petition is accordingly allowed and the order dated 14.08.2002 passed in A.T.C.No.104 of 1999 is set aside and the same is allowed. The landlady is entitled to fair rent of 12 bags of paddy per annum. The fair rent is fixed at 8½ bags of paddy for the first crop and 3½ bags of paddy for the second crop. It is open to the petitioner to move an appropriate application for recovery of fair rent. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Civil Revision Petition shall stand closed.

Date:21.12.2017

KH

P. NAVEEN RAO, J

