

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.1608 OF 2011

ORDER:

The revision is directed against concurrent findings of fact recorded against petitioner in the petition filed under Section 16 of the A.P (Andhra Area) Tenancy Act, 1956.

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

The petitioner herein claiming to be the cultivating tenant of the schedule land filed A.T.C.No.5 of 1996 seeking to continue him as tenant for a period of six years and declare the petitioner as cultivating tenant for a further period of six years after expiry of lease period and for permanent injunctions. According to petitioner, the schedule land originally belonged to See Jangam Matam of Nidimamidi Village and is an endowment property. The petitioner is cultivating the schedule land, having obtained lease from the respondents. The first lease period commenced from 1987-88 till 1992-93 for six years at Rs.9,600/- per annum and the second lease period was given from 1993-94 at the enhanced amount of Rs.12,843/- per annum. The petitioner paid the lease amount to the respondents every year regularly without committing default. Though the petitioner did not raise crop in the schedule land for six years out of nine years, even then the petitioner paid the lease amount. The petitioner spent huge sums for manuring and ploughing the schedule land for sowing. The 2nd respondent issued

notice stating that the lease hold rights of the schedule land will be auctioned on 20.06.1996. Hence, the petitioner prayed for renewal of lease for a further period of six years.

The 1st respondent filed counter *inter alia* admitting leasing out the schedule land to the petitioner for the periods and amounts stated above and denying payment of lease amounts by petitioner regularly.

The Tenancy Tribunal framed three issues for consideration and during enquiry before the Special Tenancy Officer, the petitioner examined himself as P.W.1 and also examined one C.Narayana as P.W.2 and marked Exs.P-1 to P-12. On behalf of respondents, R.W.1 was examined and no exhibits were marked.

On consideration of the evidence available on record, the learned Special Tenancy Officer dismissed A.T.C.No.05 of 1996. Aggrieved by the same, the petitioner preferred an appeal in A.S.No.19 of 2005. By the impugned judgment, the Appellate Tribunal dismissed the appeal. Hence, the present revision.

I have perused the findings recorded by the primary tribunal on points 1 to 3. The gist of the findings read thus:

“POINT No.1:

.....In the above circumstances, the argument of the learned counsel for the petitioner in that aspect is of no use mainly on two grounds the petitioner is not entitled for extension of lease period i.e., under Sec.75 of A.P. Charitable Hindu Religious Institutions and Endowments Act, 1997 any lease for a term exceeding 6 years is null and void. The payment of lease is irregular and on that ground also the petitioner is not entitled for any extension of lease period.

The learned counsel for the petitioner also argued that the petitioner filed petitions to extend the lease periods but the respondents did not take action on the said application and hence petitioner is entitled to continue as cultivating tenant. Though the learned counsel argued like that but no petition copy is filed to show that the petitioner applied for extension for lease period. Anyhow the grant of lease for more than 6 years barred U/s 75, 77 of said act. In the above circumstances the petitioner is not entitled for declaration to continue as cultivating tenant for a further period of 6 years and accordingly point No.1 is answered against the petitioner.

POINT 2 AND 3: When the petitioner is not entitled for any extension of lease the petitioner is not entitled for protection by granting permanent injunction. Similarly the petitioner is not entitled for grant of permanent injunction for conducting auction of lease hold rights as the date fixed for auction is already expired. Accordingly points 2 and 3 are answered against the petitioner.”

The Appellate Tribunal has examined to what extent the petitioner has discharged the burden in proving his case. The finding recorded is that the petitioner has not adduced sufficient evidence to appreciate the same and consider granting one or the other prayers under Section 16 of the Act.

After perusing the orders impugned in the revision, I am of the view that the ATC was filed for the benefit of extending the lease for a period of six years from 1993-94 and to declare the petitioner as cultivating tenant. The period for which the petitioner wanted lease was over long long ago and on the other contention viz., the petitioner failed to establish the relationship of landlord and tenant between the institution and the petitioner, I am in agreement with the findings of fact recorded by the Appellate Tribunal.

Revision fails and is, accordingly, dismissed. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

S.V.BHATT, J

25th January, 2017
Lrkm

