

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI

WRIT PETITION No.3316 of 2006

ORDER:

This writ petition is filed questioning the orders passed by the Appellate Tribunal-cum-District Judge, West Godavari, at Eluru, in A.T.A.No.60 of 1996, dated 17.11.2003, confirming the orders passed by the Special Officer-cum-Principal District Munsif, Kovvur in A.T.C.No.43 of 1985, dated 3.6.1996, as illegal and arbitrary.

Brief facts of the case, according to the petitioner, are that he filed the tenancy case, under Sections 13 and 16 of the Andhra Pradesh (Andhra Area) Tenancy Act, for evicting the respondents from the schedule land and to deliver possession to him; the petition schedule land, which is an extent of Acs.3-73 cents, originally belonged to one Ponnada Pundarikakshudu; he leased out the schedule land on 19.5.1977 to one K.Rama Rao, the father of the respondents 1, 2 and husband of respondent No.3 on an annual rent of Rs.2,000/-; since then K.Rama Rao has been cultivating the schedule land and paid the rents upto 1982-83; the fourth respondent has unlawfully set up tenancy for the land, as a result of which, K. Rama Rao filed A.T.C.No.42 of 1982 before the

Special Officer against Late Pundarikakshudu and the fourth respondent seeking a declaration that he is the cultivating tenant of the petition schedule land and to grant permanent injunction; K.Rama Rao could not carry on the cultivation any longer and informed Pundarikakhsudu on 1.7.1984 that he was surrendering the possession of schedule land and that the landlord could dispose of the land; he also suggested the name of the petitioner as intending purchaser of the schedule land; Pundarikakshudu agreed to sell the same to the petitioner and agreement of sale was executed on 17.9.1984; on 8.10.1984, the fourth respondent issued a registered notice to Pundarikakushudu and to the petitioner claiming the right of first purchase; on 10.10.1985, Pundarikakshudu executed a regular sale deed in favour of the petitioner and registered the same on 15.10.1985; thereafter the petitioner was impleaded as a party in ATC No.42 of 1982; K.Rama Rao committed default in paying the rents for the year 1984-85 and advanced rent for the year 1985-86, hence, the respondents 1 to 3 have no right to remain in possession of the schedule land and the respondents are liable to be evicted from the schedule land as they committed default in payment of rents; the Special Officer erroneously concluded that the sale in favour of the petitioner is

voidable at the option of the tenant and that the alleged surrender is not valid and is hit by Sections 14 and 15 of the Act. Aggrieved by the said order, the petitioner filed A.T.A.No.60 of 1996 on the file of the Appellate Tribunal-cum-District Judge, West Godavari District and the Appellate Tribunal mechanically confirmed the said order. Hence, the writ petition.

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

As seen from the record, A.T.C.No.42 of 1982 was filed by K.Rama Rao under Section 16 of A.P.Tenancy Act against Ponnada Pundarikakshudu and V.Sundaramma, 4th respondent herein for a declaration that he is cultivating the land as a tenant; during the pendency of the said A.T.C. No.42 of 1982, K.Rama Rao died on 6.2.1985 and hence, his wife and children were brought on record as his legal representatives on 21.8.1985. A.T.C.No.42 of 1982 was allowed, by an order dated 3.6.1996. A.T.C. No.43 of 1985 was filed by Ponnada Pundarikakshudu under sections 13 and 16 of the Tenancy Act for evicting the respondents and the said A.T.C.No.43 of 1985 was dismissed on 3.6.1996. Challenging the same, A.T.A. No.60 of 1996 which was filed also dismissed. The present writ petition is filed challenging the order in A.T.A.No.60 of 1996.

A.T.A.No.95 of 1996 was filed by Vardhanapu Sundaramma-Respondent No.4 herein challenging the order in A.T.C.No.43 of 1985 and the said A.T.A.No.95 of 1996 was dismissed by an order dated 17.11.2003. The said order is not challenged and it has become final. A.T.C.No.26 of 1986 was filed by K.Venkayamma and two others under section 15 of the A.P.Tenancy Act, 1956 to direct the respondents therein Ponnada Pundarikakshudu, the petitioner herein and two others to execute a sale deed in respect of the schedule property. The said A.T.C.No.26 of 1986 was allowed, by an order dated 3.6.1996, directing the applicants therein to pay the amount fixed by the lower court in ten equal installments. A.T.A.No.59 of 1996 was filed by the petitioner challenging the said order in A.T.C.No.26 of 1986. The said A.T.A.No.59 of 1996 was dismissed on 17.11.2003 and the Writ Petition No. 11010 of 2006 was filed challenging the order in A.T.A.No.59 of 1996. The said writ petition was dismissed by an order dated 9.6.2006.

It is submitted by the learned counsel for the respondents that the respondents 1 and 2 paid the entire amount and that they filed E.P.No.73 of 2017 and that the same is pending before the Special Officer

Tenancy Tribunal-cum-Principal Junior Civil Judge, at Kovvur.

As seen from the facts, the order in A.T.C.No.26 of 1986 has become final and the respondents 1 and 2 have paid all the installments for execution of the sale deed and Writ Petition No.11010 of 2006, which was filed challenging the order in A.T.A.No.59 of 1996, was also dismissed on 9.6.2006. Hence, the learned counsel for the petitioner and the respondents submit that cause in the present Writ Petition does not survive.

In view of the facts and circumstances of the case, no further orders are necessary in this writ petition and writ petition is dismissed, accordingly.

Miscellaneous petitions pending if any, shall stand closed. No order as to costs.

KONGARA VIJAYA LAKSHMI, J

Dated:06.08.2018

Slk

HON'BLE SMT. JUSTICE KONGARA VIJAYA LAKSHMI



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